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असाधारण

EXTRAORDINARY

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PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on 21st December, 2005:—

I

BILL NO. CXXX OF 2005

A Bill to provide for the establishment of Petroleum and Natural Gas Regulatory Board to regulate the refining, processing, storage, transportation, distribution, marketing and sale of petroleum, petroleum products and natural gas excluding production of crude oil and natural gas so as to protect the interests of consumers and entities engaged in specified activities relating to petroleum, petroleum products and natural gas and to ensure uninterrupted and adequate supply of petroleum, petroleum products and natural gas in all parts of the country and to promote competitive markets and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Petroleum and Natural Gas Regulatory Board Act, 2005.

(2) It extends to the whole of India.

Short title,
extent,
commencement
and
application.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

(4) It applies to refining, processing, storage, transportation, distribution, marketing and sale of petroleum, petroleum products and natural gas excluding production of crude oil and natural gas.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “affiliate code of conduct” means the code of conduct governing entities engaged in storage, transmission, distribution, marketing and sale of natural gas under sub-section (1) of section 21;

(b) “Appellate Tribunal” means the Appellate Tribunal referred to in section 30;

(c) “appointed day” means the date on which the Board is established under sub-section (1) of section 3;

(d) “authorised entity” means an entity—

(A) registered by the Board under section 15 —

(i) to market any notified petroleum, petroleum products or natural gas, or

(ii) to establish and operate liquefied natural gas terminals, or

(B) authorised by the Board under section 16 —

(i) to lay, build, operate or expand a common carrier or contract carrier, or

(ii) to lay, build, operate or expand a city or local natural gas distribution network;

(e) “auto liquefied petroleum gas” means a mixture of certain light hydrocarbons derived from petroleum, which are gaseous at normal ambient temperature and atmospheric pressure but may be condensed to the liquid state at normal ambient temperature by the application of moderate pressure, and which conform to such specifications for use as fuel in vehicles, as the Central Government may, in consultation with the Bureau of Indian Standards, notify from time to time;

(f) “Board” means the Petroleum and Natural Gas Regulatory Board established under sub-section (1) of section 3;

(g) “Bureau of Indian Standards” means the Bureau of Indian Standards established under section 3 of the Bureau of Indian Standards Act, 1986;

63 of 1986.

(h) “Chairperson” means the Chairperson of the Board appointed under sub-section (1) of section 4;

(i) “city or local natural gas distribution network” means an inter-connected network of gas pipelines and the associated equipment used for transporting natural gas from a bulk supply high pressure transmission main to the medium pressure distribution grid and subsequently to the service pipes supplying natural gas to domestic, industrial or commercial premises and CNG stations situated in a specified geographical area.

Explanation.—For the purposes of this clause, the expressions “high pressure” and “medium pressure” shall mean such pressure as the Central Government may, by notification, specify to be high pressure or, as the case may be, medium pressure;

(j) "common carrier" means such pipelines for transportation of petroleum, petroleum products and natural gas by more than one entity as the Board may declare or authorise from time to time on a non-discriminatory open access basis under sub-section (3) of section 20, but does not include pipelines laid to supply—

(i) petroleum products or natural gas to a specific consumer; or

(ii) crude oil;

Explanation.— For the purposes of this clause, a contract carrier shall be treated as a common carrier, if—

(i) such contract carrier has surplus capacity over and above the firm contracts entered into; or

(ii) the firm contract period has expired.

(k) "CNG station" means filling station where one or more dispensing units are provided for sale of compressed natural gas;

(l) "compressed natural gas or CNG" means natural gas used as fuel for vehicles, typically compressed to the pressure ranging from 200 to 250 bars in the gaseous state;

(m) "contract carrier" means such pipelines for transportation of petroleum, petroleum products and natural gas by more than one entity pursuant to firm contracts for at least one year as may be declared or authorised by the Board from time to time under sub-section (3) of section 20;

(n) "dealer" means a person, association of persons, firm, company or co-operative society, by whatsoever name called or referred to, and appointed by an oil company to purchase, receive, store and sell motor spirit, high speed diesel, superior kerosene oil, auto liquefied petroleum gas or natural gas;

(o) "distributor" means a person, association of persons, firm, company or co-operative society, by whatsoever name called or referred to, and appointed by an oil company to purchase, receive, store and sell to consumers liquefied petroleum gas in cylinders;

(p) "entity" means a person, association of persons, firm, company or co-operative society, by whatsoever name called or referred to, other than a dealer or distributor, and engaged or intending to be engaged in refining, processing, storage, transportation, distribution, marketing, import and export of petroleum, petroleum products and natural gas including laying of pipelines for transportation of petroleum, petroleum products and natural gas, or laying, building, operating or expanding city or local natural gas distribution network or establishing and operating a liquefied natural gas terminal;

(q) "exchange of products" shall mean giving and receiving of a petroleum product in accordance with an agreement entered into by the concerned entities;

(r) "high speed diesel" means any hydrocarbon oil (excluding mineral colza oil and turpentine substitute), which conforms to such specifications for use as fuel in compression ignition engines, as the Central Government may, in consultation with the Bureau of Indian Standards, notify from time to time;

(s) "kerosene or superior kerosene oil" means a middle distillate mixture of hydrocarbons which conforms to such specifications, as the Central Government may, in consultation with the Bureau of Indian Standards, notify from time to time;

(t) "liquefied natural gas terminal" means the facilities and infrastructure required to—

(i) receive liquefied natural gas;

(ii) store liquefied natural gas;

(iii) enable regasification of liquefied natural gas; and

(iv) transport regasified liquefied natural gas till the outside boundaries of the facility;

(u) "liquefied petroleum gas" means a mixture of light hydrocarbons containing propane, isobutane, normal butane, butylenes, or such other substance which is gaseous at normal ambient temperature and atmospheric pressure but may be condensed to liquid state at normal ambient temperature by the application of pressure and conforms to such specifications, as the Central Government may, in consultation with the Bureau of Indian Standards, notify from time to time;

(v) "local distribution entity" means an entity authorised by the Board under section 20 to lay, build, operate or expand a city or local natural gas distribution network;

(w) "marketing service obligations" means obligations—

(i) to set up marketing infrastructure and retail outlets in remote areas in respect of notified petroleum and petroleum products;

(ii) to maintain minimum stock of notified petroleum and petroleum products;

(iii) of a local distribution entity to supply natural gas to consumers; and

(iv) such other obligations as may be specified by regulations;

(x) "maximum retail price" means the maximum price fixed by an entity at which the petroleum, petroleum products and natural gas may be sold to the retail consumers and includes all taxes, cess and levies, local or otherwise and freight or commission payable to the dealers;

(y) "member" means a member of the Board appointed under sub-section (1) of section 4 and includes the Member (Legal) and the Chairperson;

(z) "motor spirit" means any hydrocarbon oil (excluding crude mineral oil) used as fuel in spark ignition engines which conforms to such specifications, as the Central Government may, in consultation with the Bureau of Indian Standards, notify from time to time;

(za) "natural gas" means gas obtained from bore-holes and consisting primarily of hydrocarbons and includes—

(i) gas in liquid state, namely, liquefied natural gas and regasified liquefied natural gas,

(ii) compressed natural gas,

(iii) gas imported through transnational pipe lines, including CNG or liquefied natural gas,

(iv) gas recovered from gas hydrates as natural gas,

(v) methane obtained from coal seams, namely, coal bed methane,

but does not include helium occurring in association with such hydrocarbons;

(zb) "notification" means a notification published in the Official Gazette and the expression "notified" with its cognate meanings and grammatical variations, shall be construed accordingly;

(zc) "notified petroleum, petroleum products and natural gas" means such petroleum, petroleum products and natural gas as the Central Government may notify from time to time, after being satisfied that it is necessary or expedient so to do for maintaining or increasing their supplies or for securing their equitable distribution or ensuring adequate availability;

1 of 1956.

(zd) "oil company" means a company registered under the Companies Act, 1956 and includes an association of persons, society or firm, by whatsoever name called or referred to, for carrying out an activity relating to petroleum, petroleum products and natural gas;

(ze) "petroleum" means any liquid hydrocarbon or mixture of hydrocarbons, and any inflammable mixture (liquid, viscous or solid) containing any liquid hydrocarbon, including crude oil and liquefied petroleum gas, and the expression 'petroleum product' shall mean any product manufactured from petroleum;

(zf) "pipeline access code" means the code to establish a framework for third party access to pipelines under sub-clause (i) of clause (e) of section 11;

(zg) "prescribed" means prescribed by rules made by the Central Government under this Act;

(zh) "regulations" means regulations made by the Board under this Act;

(zi) "restrictive trade practice" means a trade practice which has, or may have, the effect of preventing, distorting or restricting competition in any manner and in particular,—

(i) which tends to obstruct the flow of capital or resources into the stream of production, or

(ii) which tends to bring about manipulation of prices, or conditions of delivery or to affect the flow of supplies in the market relating to petroleum, petroleum products or natural gas or services in such manner as to impose on the consumers unjustified costs or restrictions;

(zj) "retail outlet" means filling station where one or more dispensing pumps have been provided for sale of motor spirit, high speed diesel, auto-liquefied petroleum gas or natural gas and includes distributorship for liquefied petroleum gas or dealership for superior kerosene oil or CNG stations;

(zk) "retail service obligations" means obligations of dealers and distributors for maintaining supplies to consumers throughout the specified working hours and of specified quality, quantity and display of maximum retail price of notified petroleum, petroleum products and natural gas including CNG and such other obligations, as may be specified by regulations;

(zl) "rules" means rules made by the Central Government under this Act;

(zm) "Secretary" means the Secretary of the Board;

(zn) "transportation rate", in relation to common carrier or contract carrier or a city or local natural gas distribution network, means such rate for moving each unit of petroleum, petroleum products or natural gas as may be fixed by regulations.

CHAPTER II

PETROLEUM AND NATURAL GAS REGULATORY BOARD

3. (1) With effect from such date as the Central Government may, by notification, appoint, there shall be established, for the purposes of this Act, a Board to be called the Petroleum and Natural Gas Regulatory Board.

Establishment and incorporation of the Board.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The Board shall consist of a Chairperson, a Member (Legal) and three other members to be appointed by the Central Government.

(4) The head office of the Board shall be at New Delhi and regional offices at such places as the Board may deem necessary having regard to public interest and magnitude of the work.

Qualifications
for appointment
of Chair-
person and
other members.

4. (1) The Central Government shall appoint the Chairperson and other members of the Board from amongst persons of eminence in the fields of petroleum and natural gas industry, management, finance, law, administration or consumer affairs:

Provided that no person shall be appointed as Member (Legal) unless he—

(a) is qualified to be a Judge of a High Court; or

(b) has been a member of the Indian Legal Service and has held a post in Grade I of that Service for at least three years.

(2) The Central Government shall, for the purposes of selecting the Chairperson and other members of the Board and for preparing a panel of persons to be considered for appointment as the Technical Member (Petroleum and Natural Gas) of the Appellate Tribunal, constitute a Search Committee consisting of—

(i) Member, Planning Commission in charge of the energy sector — *Chairperson*;

(ii) Secretary to the Government of India, Ministry of Petroleum and Natural Gas — *Member*;

(iii) Secretary to the Government of India, Ministry of Finance, Department of Economic Affairs — *Member*;

(iv) Secretary to the Government of India in charge of Commerce, Ministry of Commerce and Industry — *Member*; and

(v) Secretary to the Government of India, Department of Legal Affairs, Ministry of Law and Justice — *Member*.

Term of office,
conditions of
service, etc.,
of Chairperson
and other
members.

5. (1) Before appointing any person as the Chairperson or other member, the Central Government shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as Chairperson or such other member.

(2) The Chairperson and other members shall hold office for a term of five years from the date on which they enter upon their offices or until they attain the age of sixty-five years, whichever is earlier:

Provided that the Chairperson and other members shall not be eligible for re-appointment.

Explanation.—For the purposes of this section, appointment of a member as Chairperson shall not be deemed to be re-appointment.

(3) A person in the service of the Central Government, a State Government or an undertaking, corporation or company owned or controlled by the Central Government or a State Government or from any other non-Governmental or corporate body shall resign or retire from such service before joining as the Chairperson or other member, as the case may be.

(4) The salaries and allowances payable to and the other terms and conditions of service of the Chairperson and the other members shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or any other member shall be varied to his disadvantage after appointment.

(5) The Chairperson or other member may resign his office by giving notice thereof in writing to the Central Government and on such resignation being accepted, the Chairperson or such other member shall be deemed to have vacated his office.

(6) The Chairperson or any other member, upon ceasing to hold office as such, shall—

(a) be ineligible for further employment under the Central Government or any State Government; and

(b) not accept any commercial employment for a period of two years from the date he ceases to hold such office.

Explanation.—For the purposes of this section, “commercial employment” means employment in any capacity under, or agency of, a person engaged in trading, commercial, industrial or financial business in any field and includes also a director of a company or partner of a firm or setting up practice either independently or as partner of a firm or as an advisor or a consultant.

6. The Chairperson shall have the powers of general superintendence and directions in the conduct of the affairs of the Board and shall, in addition to presiding over the meetings of the Board, exercise and discharge such other powers and functions of the Board, as may be assigned to him by the Board.

Powers of
Chairperson.

7. The Central Government may remove from office the Chairperson or any other member, who—

Removal of
Chairperson or
any other
member from
office.

(a) has been adjudged as insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as a member; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest:

Provided that no Chairperson or other member shall be removed from office under clause (d) or clause (e) unless the Central Government, after holding an inquiry by any person appointed or authority constituted for the purpose and in accordance with such procedure as may be prescribed in this behalf, is satisfied that such person ought on such ground or grounds to be removed.

8. (1) The Board shall meet at such times and places, and shall observe such procedure in regard to the transaction of business at its meetings (including the quorum at such meetings) as may be provided by regulations.

Meetings of
the Board.

(2) The Chairperson or, if he is unable to attend a meeting of the Board, the senior-most member present, reckoned from the date of appointment to the Board, shall preside at the meeting:

Provided that in case of common date of appointment of members, the member senior in age shall be considered as senior to the other members.

(3) All questions which come up before any meeting of the Board shall be decided by a majority of the members present and voting, and in the event of an equality of votes, the Chairperson or in his absence, the person presiding shall have a second or casting vote.

(4) All orders and decisions of the Board shall be authenticated by the Secretary or any other officer of the Board duly authorised by the Chairperson in this behalf.

Vacancies,
etc., not to
invalidate
proceedings
of the Board.

9. No act or proceeding of the Board shall be invalid merely by reason of—

- (a) any vacancy in, or any defect in the constitution of, the Board; or
- (b) any defect in the appointment of a person acting as a member of the Board; or
- (c) any irregularity in the procedure of the Board not affecting the merits of the case.

Officers and
other
employees of
the Board.

10. (1) The Central Government may, in consultation with the Board, appoint a Secretary to exercise and perform such powers and duties, under the control of the Chairperson as may be specified by regulations:

Provided that no such consultation shall be necessary for appointment of the first Secretary of the Board.

(2) The Board may, with the approval of the Central Government, determine the number, nature and categories of other officers and employees required to assist the Board in the efficient discharge of its functions.

(3) The salaries and allowances payable to and the other terms and conditions of service of the Secretary, the other officers and employees of the Board shall be such as may be prescribed.

(4) The Board may appoint consultants required to assist in the discharge of its functions on such terms and conditions as may be determined by regulations.

CHAPTER III

FUNCTIONS AND POWERS OF THE BOARD

Functions of
the Board.

11. The Board shall—

(a) protect the interest of consumers by fostering fair trade and competition amongst the entities;

(b) register entities to—

(i) market notified petroleum and petroleum products and, subject to the contractual obligations of the Central Government, natural gas;

(ii) establish and operate liquefied natural gas terminals;

(iii) establish storage facilities for petroleum, petroleum products or natural gas exceeding such capacity as may be specified by regulations;

(c) authorise entities to—

(i) lay, build, operate or expand a common carrier or contract carrier;

(ii) lay, build, operate or expand city or local natural gas distribution network;

(d) declare pipelines as common carrier or contract carrier;

(e) regulate, by regulations,—

(i) access to common carrier or contract carrier so as to ensure fair trade and competition amongst entities and for that purpose specify pipeline access code;

(ii) transportation rates for common carrier or contract carrier;

(iii) access to city or local natural gas distribution network so as to ensure fair trade and competition amongst entities as per pipeline access code;

(f) in respect of notified petroleum, petroleum products and natural gas—

(i) ensure adequate availability;

(ii) ensure display of information about the maximum retail prices fixed by the entity for consumers at retail outlets;

(iii) monitor prices and take corrective measures to prevent restrictive trade practice by the entities;

(iv) secure equitable distribution for petroleum and petroleum products;

(v) provide, by regulations, and enforce, retail service obligations for retail outlets and marketing service obligations for entities;

(vi) monitor transportation rates and take corrective action to prevent restrictive trade practice by the entities;

(g) levy fees and other charges as determined by regulations;

(h) maintain a data bank of information on activities relating to petroleum, petroleum products and natural gas;

(i) lay down, by regulations, the technical standards and specifications including safety standards in activities relating to petroleum, petroleum products and natural gas, including the construction and operation of pipeline and infrastructure projects related to downstream petroleum and natural gas sector;

(j) perform such other functions as may be entrusted to it by the Central Government to carry out the provisions of this Act.

12. (1) The Board shall have jurisdiction to—

(a) adjudicate upon and decide any dispute or matter arising amongst entities or between an entity and any other person on issues relating to refining, processing, storage, transportation, distribution, marketing and sale of petroleum, petroleum products and natural gas according to the provisions of Chapter V, unless the parties have agreed for arbitration;

Powers regarding complaints and resolution of disputes by the Board.

(b) receive any complaint from any person and conduct any inquiry and investigation connected with the activities relating to petroleum, petroleum products and natural gas on contravention of—

(i) retail service obligations;

(ii) marketing service obligations;

(iii) display of retail price at retail outlets;

(iv) terms and conditions subject to which a pipeline has been declared as common carrier or contract carrier or access for other entities was allowed to a city or local natural gas distribution network, or authorisation has been granted to an entity for laying, building, expanding or operating a pipeline as common carrier or contract carrier or authorisation has been granted to an entity for laying, building, expanding or operating a city or local natural gas distribution network;

(v) any other provision of this Act or the rules or the regulations or orders made thereunder.

(2) While deciding a complaint under sub-section (1), the Board may pass such orders and issue such directions as it deems fit or refer the matter for investigation according to the provisions of Chapter V.

Procedure of
the Board.

13. (1) The Board shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, 5 of 1908. while trying a suit, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or a copy of such record or document, 1 of 1872. from any office and production of such documents;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) dismissing an application for default or deciding it, *ex parte*;
- (f) setting aside any order of dismissal of any application for default or any order passed by it, *ex parte*;
- (g) granting interim relief;
- (h) reviewing its decision; and
- (i) any other matter which may be prescribed.

(2) Every proceeding before the Board shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code and the Board shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973. 45 of 1860. 2 of 1974.

(3) The Board shall be guided by the principles of natural justice and subject to other provisions of this Act and of any rules made thereunder, shall have powers to regulate its own procedure including the places at which it shall conduct its business.

CHAPTER IV

REGISTRATION AND AUTHORISATION

Register.

14. (1) For the purposes of this Act, a register to be called the Petroleum and Natural Gas Register shall be kept at the head office of the Board containing such details of entities—

- (a) registered for—
 - (i) marketing notified petroleum, petroleum products or natural gas, or
 - (ii) establishing and operating liquefied natural gas terminals, or
 - (iii) establishing storage facilities for petroleum, petroleum products or natural gas exceeding such capacity as may be specified by regulations, or
- (b) authorised for —
 - (i) laying, building, operating or expanding a common carrier, or
 - (ii) laying, building, operating or expanding a city or local natural gas distribution network, as may be provided by the Board by regulations.

(2) A copy of any entry in the register purporting to be maintained by the Board and certified as such by an officer authorised by the Board, shall be admitted in evidence in all courts and in all proceedings without further proof or production of the original.

(3) The register shall be open to public inspection at the head office of the Board.

(4) Any person may, on application to the Board, and on payment of such fee as may be determined by the Board, by regulations, obtain a certified copy of any entry in the register.

15. (1) Every entity desirous of—

Registration
of entities.

- (a) marketing any notified petroleum or petroleum products or natural gas; or
- (b) establishing or operating a liquefied natural gas terminal; or
- (c) establishing storage facilities for petroleum, petroleum products or natural gas exceeding such capacity as may be specified by regulations,

and fulfilling the eligibility conditions as may be prescribed shall make an application to the Board for its registration under this Act:

Provided that no registration under this Act shall be required for any entity carrying on any activity referred to in clause (a) or clause (b) or clause (c) immediately before the appointed day but shall inform the Board about such activity within six months from the appointed day.

(2) Every application for registration under sub-section (1) shall be made in such form and in such manner and shall be accompanied by such fee as may be determined by the Board by regulations.

(3) The Board may, after making such enquiry and subject to such terms and conditions as it may specify, grant a certificate of registration to the entity allowing to commence and carry on the activity referred to in clause (a) or clause (b) or clause (c), as the case may be, of sub-section (1).

(4) The Board may, by order, suspend or cancel a certificate of registration granted under sub-section (3) in such manner as may be determined by regulations:

Provided that no order under this sub-section shall be made unless the entity concerned has been given a reasonable opportunity of being heard.

16. No entity shall—

Authorisation.

(a) lay, build, operate or expand any pipeline as a common carrier or contract carrier,

(b) lay, build, operate or expand any city or local natural gas distribution network,

without obtaining authorisation under this Act:

Provided that an entity,—

(i) laying, building, operating or expanding any pipeline as common carrier or contract carrier; or

(ii) laying, building, operating or expanding any city or local natural gas distribution network,

immediately before the appointed day shall be deemed to have such authorisation subject to the provisions of this Chapter, but any change in the purpose or usage shall require separate authorisation granted by the Board.

17. (1) An entity which is laying, building, operating or expanding, or which proposes to lay, build, operate or expand, a pipeline as a common carrier or contract carrier shall apply in writing to the Board for obtaining an authorisation under this Act:

Application for
authorisation.

Provided that an entity laying, building, operating or expanding any pipeline as common carrier or contract carrier authorised by the Central Government at any time before the appointed day shall furnish the particulars of such activities to the Board within six months from the appointed day.

(2) An entity which is laying, building, operating or expanding, or which proposes to lay, build, operate or expand, a city or local natural gas distribution network shall apply in writing for obtaining an authorisation under this Act:

Provided that an entity laying, building, operating or expanding any city or local natural gas distribution network authorised by the Central Government at any time before the appointed day shall furnish the particulars of such activities to the Board within six months from the appointed day.

(3) Every application under sub-section (1) or sub-section (2) shall be made in such form and in such manner and shall be accompanied with such fee as the Board may, by regulations, specify.

(4) Subject to the provisions of this Act and consistent with the norms and policy guidelines laid down by the Central Government, the Board may either reject or accept an application made to it, subject to such amendments or conditions, if any, as it may think fit.

(5) In the case of refusal or conditional acceptance of an application, the Board shall record in writing the grounds for such rejection or conditional acceptance, as the case may be.

Publicity of applications.

18. When an application for registration for marketing notified petroleum, petroleum products and natural gas, or for establishing and operating a liquefied natural gas terminal, or for establishing storage facilities for petroleum, petroleum products or natural gas exceeding such capacity as may be specified by regulations, is accepted whether absolutely or subject to conditions or limitations, the Board shall, as soon as may be, cause such acceptance to be known to the public in such form and manner as may be provided by regulations.

Grant of authorisation.

19. (1) When, either on the basis of an application for authorisation for laying, building, operating or expanding a common carrier or contract carrier or for laying, building, operating or expanding a city or local natural gas distribution network is received or on *suo motu* basis, the Board forms an opinion that it is necessary or expedient to lay, build, operate or expand a common carrier or contract carrier between two specified points, or to lay, build, operate or expand a city or local natural gas distribution network in a specified geographic area, the Board may give wide publicity of its intention to do so and may invite applications from interested parties to lay, build, operate or expand such pipelines or city or local natural gas distribution network.

(2) The Board may select an entity in an objective and transparent manner as specified by regulations for such activities.

Declaring, laying, building, etc., of common carrier or contract carrier and city or local natural gas distribution network.

20. (1) If the Board is of the opinion that it is necessary or expedient, to declare an existing pipeline for transportation of petroleum, petroleum products and natural gas or an existing city or local natural gas distribution network, as a common carrier or contract carrier or to regulate or allow access to such pipeline or network, it may give wide publicity of its intention to do so and invite objections and suggestions within a specified time from all persons and entities likely to be affected by such decision.

(2) For the purposes of sub-section (1), the Board shall provide the entity owning, the pipeline or network an opportunity of being heard and fix the terms and conditions subject to which the pipeline or network may be declared as a common carrier or contract carrier and pass such orders as it deems fit having regard to the public interest, competitive transportation rates and right of first use.

(3) The Board may, after following the procedure as specified by regulations under section 19 and sub-sections (1) and (2), by notification,—

(a) declare a pipeline or city or local natural gas distribution network as a common carrier or contract carrier; or

(b) authorise an entity to lay, build, operate or expand a pipeline as a common carrier or contract carrier; or

(c) allow access to common carrier or contract carrier or city or local natural gas distribution network; or

(d) authorise an entity to lay, build, operate or expand a city or local natural gas distribution network.

(4) The Board may decide on the period of exclusivity to lay, build, operate or expand a city or local natural gas distribution network for such number of years as it may by order, determine in accordance with the principles laid down by the regulations made by it, in a transparent manner while fully protecting the consumer interests.

(5) For the purposes of this section, the Board shall be guided by the objectives of promoting competition among entities, avoiding infructuous investment, maintaining or increasing supplies or for securing equitable distribution or ensuring adequate availability of petroleum, petroleum products and natural gas throughout the country and follow such principles as the Board may, by regulations, determine in carrying out its functions under this section.

21. (1) The entity laying, building, operating or expanding a pipeline for transportation of petroleum and petroleum products or laying, building, operating or expanding a city or local natural gas distribution network shall have right of first use for its own requirement and the remaining capacity shall be used amongst entities as the Board may, after issuing a declaration under section 20, determine having regard to the needs of fair competition in marketing and availability of petroleum and petroleum products throughout the country:

Right of first use, etc.

Provided that in case of an entity engaged in both marketing of natural gas and laying, building, operating or expanding a pipeline for transportation of natural gas on common carrier or contract carrier basis, the Board shall require such entities to comply with the affiliate code of conduct as may be specified by regulations and may require such entity to separate the activities of marketing of natural gas and the transportation including ownership of the pipeline within such period as may be allowed by the Board and only within the said period, such entity shall have right of first use.

(2) An entity other than an entity authorised to operate shall pay transportation rate for use of common carrier or contract carrier to the entity operating it as an authorised entity.

(3) An entity authorised to lay, build, operate or expand a pipeline as common carrier or contract carrier or to lay, build, operate or expand a city or local natural gas distribution network shall be entitled to institute proceedings before the Board to prevent, or to recover damages for, the infringement of any right relating to authorisation.

Explanation.—For the purposes of this sub-section, “infringement of any right” means doing of any act by any person which interferes with common carrier or contract carrier or causes prejudice to the authorised entity.

22. (1) Subject to the provisions of this Act, the Board shall lay down, by regulations, the transportation tariffs for common carriers or contract carriers or city or local natural gas distribution network and the manner of determining such tariffs.

Transportation tariff.

(2) For the purposes of sub-section (1), the Board shall be guided by the following, namely:—

(a) the factors which may encourage competition, efficiency, economic use of the resources, good performance and optimum investments;

(b) safeguard the consumer interest and at the same time recovery of cost of transportation in a reasonable manner;

(c) the principles rewarding efficiency in performance;

(d) the connected infrastructure such as compressors, pumps, metering units, storage and the like connected to the common carriers or contract carriers;

(e) benchmarking against a reference tariff calculated based on cost of service, internal rate of return, net present value or alternate mode of transport;

(f) policy of the Central Government applicable to common carrier, contract carrier and city or local distribution natural gas network.

Suspension or
cancellation of
authorisation.

23. If the Board, on an application of an affected party or on its own motion, is satisfied that the entity in favour of which authorisation has been granted under section 19 has failed to comply with any conditions of authorisation, it may, after giving an opportunity to such entity of being heard, either suspend the authorisation for such period as the Board may think fit or cancel the authorisation:

Provided that where the Board is of the opinion that an authorised entity persistently acts in a manner prejudicial to the interests of consumers, it may take action for the suspension of the authorisation immediately subject to the opportunity of hearing being given subsequently, after which action so taken may be confirmed or revoked.

CHAPTER V

SETTLEMENT OF DISPUTES

Board to settle
disputes.

24. (1) Save as otherwise provided for arbitration in the relevant agreements between entities or between an entity or any other person, as the case may be, if any dispute arises, in respect of matters referred to in sub-section (2) among entities or between an entity and any other person, such dispute shall be decided by a Bench consisting of the Member (Legal) and one or more members nominated by the Chairperson:

Provided that if the members of the Bench differ on any point or points, they shall state the point or points on which they differ and refer the same to a member other than a member of the Bench for hearing on such point or points and such point or points shall be decided according to the opinion of that member.

(2) The Bench constituted under sub-section (1) shall exercise, on or from the appointed day, all such jurisdiction, powers and authority as were exercisable by a civil court on any matter relating to —

(a) refining, processing, storage, transportation and distribution of petroleum, petroleum products and natural gas by the entities;

(b) marketing and sale of petroleum, petroleum products and natural gas including the quality of service and security of supply to the consumers by the entities; and

(c) registration or authorisation issued by the Board under section 15 or section 19.

(3) Notwithstanding anything contained in the Code of Civil Procedure, 1908, the Board shall have the power to decide matters referred to in sub-section (2) on or after the appointed day. 5 of 1908.

Filing of
complaints.

25. (1) A complaint may be filed before the Board by any person in respect of matters relating to entities or between entities on any matter arising out of the provisions of this Act:

Provided that the complaints of individual consumers maintainable before a consumer disputes redressal forum under the Consumer Protection Act, 1986 shall not be taken up by the Board but shall be heard and disposed of by such forum. 68 of 1986.

Explanation.—For the purposes of this sub-section, the expression “consumer disputes redressal forum” shall mean the district forum, State Commission or, the National Commission, as the case may be, constituted under the provisions of the Consumer Protection Act, 1986. 68 of 1986.

(2) Every complaint made under sub-section (1) shall be filed within sixty days from the date on which any act or conduct constituting a contravention took place and shall be in such form and shall be accompanied by such fee as may be provided by regulations:

Provided that the Board may entertain a complaint after the expiry of the said period if it is satisfied that there was sufficient cause for not filing the complaint within that period.

(3) On receipt of a complaint under sub-section (1), the Board shall decide within thirty days whether there is a *prima facie* case against the entity or entities concerned and may either conduct enquiry on its own or refer the matter for investigation under this Chapter, to

an Investigating Officer having jurisdiction; and, where the matter is referred to such Investigating Officer, on receipt of a report from such Investigating Officer, the Board may, hear and dispose of the complaint as a dispute if it falls under sub-section (2) of section 27 and in any other case, it may pass such orders and issue such directions as it deems fit.

(4) Where the Central Government considers that a matter arising out of the provisions of this Act is required to be investigated, it shall make a reference to the Board and the provisions of this Act shall apply as if such reference were a complaint made to the Board.

26. (1) For the purposes of provisions of section 28, the Board shall, subject to the provisions of sub-section (3), appoint by general or special order, an officer of the Board as an Investigating Officer for holding an investigation in the manner provided by regulations:

Power to investigate.

Provided that where the Board considers it necessary that the matter should be investigated by any investigating agency of the State or Central Government including the special police force constituted under section 2 of the Delhi Special Police Establishment Act, 1946, the Board may request the concerned Government for directing or authorising such agency to investigate and the agency so directed or authorised shall, then, be competent to exercise the powers and to discharge the duties of an Investigating Officer under this Act.

25 of 1946.

(2) No person shall be appointed as an Investigating Officer unless he possesses such qualifications and experience as may be determined by the Board by regulations.

(3) Where more than one Investigating Officer is appointed, the Board shall specify, by order, the matters and the local limits of jurisdiction with respect to which each such officer shall exercise his jurisdiction.

27. The Board shall, while deciding a dispute under this Chapter, have due regard to the provisions of this Act and to the following factors, namely:—

Factors to be taken into account by the Board.

(a) the amount of disproportionate gain made or unfair advantage derived, wherever quantifiable, as a result of the default;

(b) the amount of loss caused to an entity as a result of the default;

(c) the repetitive nature of the default.

28. In case any complaint is filed before the Board by any person or if the Board is satisfied that any person has contravened a direction issued by the Board under this Act to provide access to, or to adhere to the transportation rate in respect of a common carrier, or to display maximum retail price at retail outlets, or violates the terms and conditions subject to which registration or authorisation has been granted under section 15 or section 19 or the retail service obligations or marketing service obligations, or does not furnish information, document, return of report required by the Board, it may, after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall pay, by way of civil penalty an amount which shall not exceed one crore rupees for each contravention and in case of a continuing failure with additional penalty which may extend to ten lakh rupees for every day during which the failure continues after contravention of the first such direction:

Civil penalty for contravention of directions given by the Board.

Provided that in the case of a complaint on restricted trade practice, the amount of civil penalty may extend to five times the unfair gains made by the entity or ten crore rupees, whichever is higher.

29. Every order made by the Board under this Act shall, on a certificate issued by an officer of the Board, shall be executable in the same manner as if it were a decree of a civil court:

Orders passed by Board deemed to be decrees.

Provided that where an appeal lies against an order of the Board and no appeal is preferred then the order of the Board shall be deemed to be a final decree under this section on the expiry of the period allowed for preferring an appeal against such order before the Appellate Tribunal.

CHAPTER VI

APPEALS TO APPELLATE TRIBUNAL

Appellate
Tribunal.

30. (1) Subject to the provisions of this Act, the Appellate Tribunal established under section 110 of the Electricity Act, 2003 shall be the Appellate Tribunal for the purposes of this Act and the said Appellate Tribunal shall exercise the jurisdiction, powers and authority conferred on it by or under this Act: 36 of 2003.

Provided that the Technical Member of the Appellate Tribunal for the purposes of this Act shall be called the Technical Member (Petroleum and Natural Gas) and shall have the qualifications specified in sub-section (2) of section 31.

(2) Notwithstanding anything contained in the Electricity Act, 2003, the Central Government may, for the purposes of this Act, appoint one or more Technical Members (Petroleum and Natural Gas) on the Appellate Tribunal for Electricity or designate a Technical Member of the said Tribunal having the qualifications specified in sub-section (2) of section 31 and when a Technical Member (Petroleum and Natural Gas) is appointed, he shall be in addition to the three other members appointed under the said Act. 36 of 2003.

Technical
Member
(Petroleum and
Natural Gas).

31. (1) The Technical Member (Petroleum and Natural Gas) shall be appointed from the panel prepared by the Search Committee constituted under sub-section (2) of section 4.

(2) A person shall not be qualified for appointment as a Technical Member (Petroleum and Natural Gas) of the Appellate Tribunal unless he—

(i) is, or has been, a Secretary for at least one year in the Ministry or Department of the Central Government having adequate experience in energy sector, especially in matters relating to Petroleum and Natural Gas sector; or

(ii) is, or has been, a person of ability and standing, having adequate knowledge or experience in dealing with matters relating to exploration, production, transmission pipelines, marketing or regulation of petroleum, petroleum products or natural gas, economics, commerce, law or management.

Terms and
conditions of
service of
Technical
Member
(Petroleum and
Natural Gas).

32. The term of office, the salaries and allowances payable to and the other terms and conditions of service of the Technical Member (Petroleum and Natural Gas) shall be the same as applicable to the other members of the Appellate Tribunal.

Appeals to
Appellate
Tribunal.

33. (1) Any person aggrieved by an order or decision made by the Board under this Act may prefer an appeal to the Appellate Tribunal:

Provided that any person preferring an appeal against an order or decision of the Board levying any penalty shall, while filing the appeal, deposit the amount of such penalty:

Provided further that where in any particular case, the Appellate Tribunal is of the opinion that deposit of such penalty would cause undue hardship to such person, it may dispense with such deposit subject to such conditions as it may deem fit to impose so as to safeguard the realisation of penalty.

(2) Every appeal under sub-section (1) shall be filed within a period of thirty days from the date on which a copy of the direction or order of decision made by the Board is received by the aggrieved person and it shall be in such form, verified in such manner and be accompanied by such fee as may be prescribed:

Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) On receipt of an appeal under sub-section (1), the Appellate Tribunal may, after giving the parties an opportunity of being heard, pass such orders thereon as it thinks fit.

(4) The Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the Board.

(5) The appeal filed under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within ninety days from the date of receipt of appeal:

Provided that where any such appeal could not be disposed of within the said period of ninety days, the Appellate Tribunal shall record its reasons in writing for not disposing of the appeal within the said period.

(6) The Appellate Tribunal may, for the purpose of examining the legality or propriety or correctness of any order or decision of the Board referred to in the appeal filed under sub-section (1), either on its own motion or otherwise, call for the records relevant to disposing of such appeal and make such orders as it thinks fit.

36 of 2003.

34. The provisions of sections 120 to 124 (both inclusive) of the Electricity Act, 2003 shall *mutatis mutandis* apply to the Appellate Tribunal in the discharge of its functions under this Act as they apply to it in the discharge of its functions under the Electricity Act, 2003.

Procedure and powers of the Appellate Tribunal.

35. The Appellate Tribunal may make rules consistent with the provisions of this Act as to the conduct and procedure in respect of all proceedings before it under this Act.

Power of Appellate Tribunal to make rules.

36. (1) Every order made by the Appellate Tribunal under this Act shall be executable by the Appellate Tribunal as a decree of a civil court, and for this purpose, the Appellate Tribunal shall have all the powers of a civil court.

Orders passed by Appellate Tribunal to be executable as a decree.

(2) Notwithstanding anything contained in sub-section (1), the Appellate Tribunal may transmit any order made by it to a civil court having jurisdiction and such civil court shall execute the order as if it were a decree made by that court.

5 of 1908.

37. (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908 or in any other law, an appeal shall lie against any order, not being an interlocutory order, of the Appellate Tribunal to the Supreme Court on one or more of the grounds specified in section 100 of that Code.

Appeal to Supreme Court.

(2) No appeal shall lie against any decision or order made by the Appellate Tribunal with the consent of the parties.

(3) Every appeal under this section shall be preferred within a period of ninety days from the date of the decision or order appealed against:

Provided that the Supreme Court may entertain the appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

CHAPTER VII

FINANCE, ACCOUNTS AND AUDIT

Grants by
Central
Government.

38. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Board grants of such sums of money as are required to pay salaries and allowances payable to the Chairperson and the other members and the administrative expenses including the salaries, allowances and pensions payable to the officers and employees of the Board.

Fund.

39. (1) There shall be constituted a Fund to be called the Petroleum and Natural Gas Regulatory Board Fund and there shall be credited thereto—

(i) all grants, fees, penalties and charges received by the Board under this Act; and

(ii) all sums received by the Board from such other sources as may be approved by the Central Government.

(2) The Fund shall be applied for making payments towards—

(i) the salaries and allowances payable to the Chairperson and other members and the administrative expenses including the salaries, allowances and pensions payable to the officers and employees of the Board;

(ii) the expenses incurred or to be incurred in carrying out the provisions of this Act.

(3) The Central Government shall—

(i) constitute a committee consisting of such persons as it thinks fit to recommend to that Government the budgetary requirements of the Board for salaries, allowances and all other expenses; and

(ii) fix the budgetary ceiling of the Board on the basis of the recommendations of the committee.

Accounts and
audit.

40. (1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.

Explanation.—For the removal of doubts, it is hereby declared that the decisions of the Board taken in the discharge of its functions under this Act, being matters appealable to the Appellate Tribunal, shall not be subject to audit under this section.

(3) The Comptroller and Auditor-General of India or any other person appointed by him in connection with the audit of the accounts of the Board shall have the same rights and privileges and authority in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and inspection of offices of the Board.

(4) The accounts of the Board as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

41. (1) The Board shall prepare once every year in such form and at such time as may be prescribed, an annual report giving a summary of its activities including information relating to the proceedings and policies during the previous years and such report shall also contain statements of annual accounts of the Board.

Annual report and its laying before Parliament.

(2) A copy of the report shall be forwarded to the Central Government and the Central Government shall cause such report to be laid, as soon as may be after it is received, before each House of Parliament.

CHAPTER VIII

POWER OF CENTRAL GOVERNMENT

42. (1) The Central Government may, from time to time, by writing issue to the Board such directions as it may think necessary in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States or public order.

Power of Central Government to issue directions.

(2) Without prejudice to the foregoing provision, the Central Government may, if it finds necessary or expedient so to do in public interest or for maintaining or increasing supplies of petroleum, petroleum products or natural gas or all or any of them or for securing their equitable distribution and ensuring adequate availability, issue policy directives to the Board in writing and such policy directives shall be binding upon the Board:

Provided that no such directive shall relate to any day-to-day affairs of the Board:

Provided further that the Board shall, as far as practicable, be given an opportunity of expressing its views before any directive is issued under this sub-section.

(3) The decision of the Central Government whether a question is one of policy or not shall be final.

43. (1) In the event of war or natural calamity or such other similar circumstances leading to disruption of supply of petroleum, petroleum products or natural gas, the Central Government may, for ensuring the continuous supply of petroleum, petroleum products or natural gas, by notification, either take over the control and management of any storage site, facilities and business premises of any entity and retail outlets or suspend its operations or entrust, to any agency of the Central or State Government for such time and manage it in such manner, as may be specified in that notification:

Taking over control and management of facilities and business premises of any entity and retail outlets in public interest.

Provided that the affected entities shall be given an opportunity of being heard before issuing orders to take over the control and management of retail outlets and other business premises:

Provided further that in case of any urgency or in cases where the circumstances do not permit serving of notice for want of sufficient time or otherwise upon the entity against whom the order is directed, the opportunity of hearing may be dispensed with in public interest in order to maintain the uninterrupted supply of petroleum, petroleum products or natural gas for a specified period.

(2) The collector of the revenue district in which the property referred to in the notification issued under sub-section (1) is situated shall determine the amount of compensation payable for taking over of the property.

(3) The form and manner in which an application for claiming compensation under this section shall be made, the procedure for determining the compensation and the time within which such compensation shall be payable, shall be such as may be prescribed.

CHAPTER IX

OFFENCES AND PUNISHMENT

Punishment for contravention of directions of the Board.

44. If a person contravenes the directions of the Board, such person shall be punishable with fine which may extend to twenty five crore rupees and in case of continuing contravention with additional fine which may extend to ten lakh rupees for every day during which the contravention continues.

Penalty for wilful failure to comply with orders of Appellate Tribunal.

45. If any person wilfully fails to comply with the order of the Appellate Tribunal, he shall be punishable with fine which may extend to one crore rupees and in case of a second or subsequent offence with fine which may extend to two crore rupees and in the case of continuing contravention with additional fine which may extend to twenty lakh rupees for every day during which such default continues.

Punishment for unauthorised activities.

46. If any person, being an entity, markets any notified petroleum, petroleum products or natural gas without a valid registrations, as the case may be, such person shall be punishable with imprisonment which may extend to three years or with fine which may extend to twenty-five crore rupees or with both, and in case of continuing contravention with additional fine which may extend to ten lakh rupees for every day during which the contravention continues.

Punishment for establishing or operating a liquefied natural gas terminal without registration.

47. If a person establishes or operates a liquefied natural gas terminal without registration as required under section 15, such person shall be liable for punishment with an imprisonment for a term which may extend to three years or penalty of twenty-five crore rupees or with both, and in case of continuing contravention with additional fine which may extend to ten lakh rupees for every day during which the contravention continues.

Punishment for laying, building, operating or expanding a common carrier or contract carrier without authorisation.

48. If a person lays, builds, operates or expands a common carrier or contract carrier or a city or local natural gas distribution network without obtaining authorisation required under section 19, such person shall be liable for punishment with an imprisonment for a term which may extend to three years or penalty of twenty-five crore rupees or with both, and in case of continuing contravention with additional fine which may extend to ten lakh rupees for every day during which the contravention continues.

Punishment for wilful damages to common carrier or contract carrier.

49. Every person who wilfully removes, destroys or damages any pipeline or city or local natural gas distribution network or other work of the common carrier or contract carrier for supplying petroleum, petroleum products or natural gas shall for each such offence be punishable with imprisonment which may extend to three years or with fine which may extend to twenty-five crore rupees or with both, and, in case of continuing contravention with additional fine which may extend to ten lakh rupees for every day during which such contravention continues.

Offences by companies.

50. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part

of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purpose of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

CHAPTER X

MISCELLANEOUS

51. (1) The Board shall maintain a data bank and information system relating to activities of entities dealing with petroleum, petroleum products and natural gas in such form and manner as may be provided by regulations.

Maintenance of data bank and information.

(2) The Board shall have power to verify the data supplied by the entities and appoint any person or persons for the purpose and take such measures as it may consider necessary.

52. (1) Every entity shall—

Obligations of entities.

(a) maintain such documentary records as may be specified by the Board by regulations;

(b) allow inspection of such facilities and documentary records, as may be specified by the Board, by any person authorised by the Board;

(c) commence operation of activities for which authorisation has been granted within such period as may be specified by the Board in the document of authorisation;

(d) register—

(i) agreements with the Board relating to use of pipelines for supply of petroleum, petroleum products and natural gas; or

(ii) any other document which the Board may determine by regulations;

(e) comply with marketing service obligations and retail service obligations.

(2) The Board may call for any information from any entity including information which is considered necessary for ensuring transparency or ascertaining true ownership of the entity.

(3) The Board or any officer authorised by the Board shall have the power to inspect and obtain information, wherever necessary, from the entities.

(4) For the effective enforcement of the terms and conditions of authorisation, the Board or any officer authorised by it for that purpose, shall have all the powers of an inspecting officer as provided under section 209A of the Companies Act, 1956.

1 of 1956.

(5) It shall be the duty of every entity to carry out the directions of the Board given under this section.

(6) The Board shall maintain confidentiality in respect of any information and record received by it from the entities and shall not disclose information contained therein to any person or authority except on the grounds of public interest.

53. The Board shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any matter in connection with proposed or existing activities under this Act, as the Central Government may, from time to time, require.

Furnishing of returns, etc., to Central Government.

Chairperson, members, etc., to be public servants.

54. The Chairperson, Members, Officers and other employees of the Board and Technical Member (Petroleum and Natural Gas) of the Appellate Tribunal shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Protection of action taken in good faith.

55. No suit, prosecution or other legal proceeding shall lie against the Central Government, Board, Technical Authority or Appellate Tribunal or any officer of the Central Government or any Chairperson, Member, officer or other employee of the Board or Technical Member (Petroleum and Natural Gas) of the Appellate Tribunal for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

Civil courts not to have jurisdiction.

56. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Board or the Appellate Tribunal is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Cognizance of certain offences.

57. (1) No court shall take cognizance of any offence punishable under Chapter IX save on a complaint made by the Board or by any investigating agency directed by the Central Government.

(2) No court inferior to that of a Chief Metropolitan Magistrate or of a Chief Judicial Magistrate shall try any offence punishable under Chapter IX.

(3) Every offence punishable under sections 44, 45, 46 and 47 shall be cognizable.

Delegation.

58. The Board may, by general or special order in writing, delegate to any member or officer of the Board subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the power to settle a dispute under Chapter VI and to make regulations under section 61), as it may deem necessary.

Power to remove difficulties.

59. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as it may deem necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Power of Central Government to make rules.

60. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the salaries and allowances payable to and the other conditions of service of the Chairperson and the other members under sub-section (4) of section 5;

(b) the procedure for appointment of any person or constitution of any authority and conducting inquiry under section 7;

(c) the salaries and allowances payable to and the other terms and conditions of service of the Secretary, officers and other employees of the Board, under sub-section (3) of section 10;

(d) any other matter in respect of which the Board may exercise the powers of a civil court under clause (i) of sub-section (1) of section 13;

(e) the eligibility conditions which an entity shall fulfil for registration under sub-section (1) of section 15;

(f) the form of appeal and the manner of verifying such form, and the fee which shall accompany such form, under sub-section (2) of section 33;

(g) the manner in which the accounts of the Board shall be maintained under sub-section (1) of section 40;

(h) the time and manner in which the annual report of the Board shall be prepared under sub-section (1) of section 41;

(i) the form and manner in which applications for claiming compensation shall be made, the procedure for determining the compensation and the time within which such compensation shall be payable, under sub-section (3) of section 43;

(j) the time and manner in which returns and statements are to be furnished by the Board to the Central Government under section 53;

(k) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

61. (1) The Board may, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the provisions of this Act.

Power of
Board to make
regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the time and places of meetings of the Board and the procedure (including quorum necessary for the transaction of business) to be followed at such meetings under sub-section (1) of section 8;

(b) the powers and duties of the Secretary under sub-section (1) of section 10;

(c) the terms and conditions of the consultants appointed under sub-section (4) of section 10;

(d) the capacity of storage facilities for petroleum, petroleum products or natural gas requiring registration under sub-clause (iii) of clause (b) of section 11;

(e) regulating open access to and transportation rate for the common carrier or contract carrier or city or local natural gas distribution network and other matters referred to in clause (e) of section 11;

(f) marketing service obligations for entities and retail service obligations for retail outlets under sub-clause (v) of clause (f) of section 11;

(g) levy of fees and other charges under clause (g) of section 11;

(h) the technical standards and specifications including safety standards in activities relating to petroleum, petroleum products and natural gas under clause (i) of section 11;

(i) the procedure to be followed by the Board including the places at which it shall conduct its business under sub-section (3) of section 13;

(j) the manner of maintaining the Petroleum and Natural Gas Register under sub-section (1) of section 14;

(k) the form and manner of making application for obtaining certified copy of any entry in the register and the fee which shall accompany such application, under sub-section (4) of section 14;

(l) the form and manner in which an application under sub-section (1) of section 15 shall be made and the fee which shall accompany such application under sub-section (2) of section 15;

(m) the manner by which a certificate of registration granted under sub-section (3) of section 15 may be suspended or cancelled under sub-section (4) of section 15;

(n) the form and manner in which an application under sub-section (1) or sub-section (2) of section 17 shall be made and the fee which shall accompany such application under sub-section (3) of section 17;

(o) the form and manner in which publicity of acceptance of applications for registration shall be made under section 18;

(p) the manner of selection of an entity under sub-section (2) of section 19;

(q) the principles for determining the number of years for which a city or local natural gas distribution network shall be excluded from the purview of a common carrier or contract carrier under sub-section (4) of section 20;

(r) the guiding principles to be followed by the Board and the objectives for declaring, or authorising to lay, build, operate or expand a common carrier or contract carrier for declaring, or authorising to lay, build, operate or expand a city or local natural gas distribution network, under sub-section (5) of section 20;

(s) the affiliate code of conduct under which the entities are required to comply with under the proviso to sub-section (1) of section 21;

(t) the transportation tariffs for common carriers or contract carriers or city or local natural gas distribution network and the manner of determining such tariffs under sub-section (1) of section 22;

(u) the form in which a complaint may be made and the fee which shall accompany such complaint, under sub-section (2) of section 25;

(v) the manner of holding an investigation by an Investigating Officer under sub-section (1) of section 26;

(w) the qualifications and experience which any person for appointment as an Investigating Officer shall possess, under sub-section (2) of section 26;

(x) the form and manner of maintaining data bank and information system by the Board under sub-section (1) of section 51;

(y) maintenance of documentary records by an entity, under clause (a) of sub-section (1) of section 52;

(z) any other type of documents which are to be registered with the Board under sub-clause (ii) of clause (d) of sub-section (1) of section 52;

(za) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be or may be made by regulations.

Rules and regulations to be laid before Parliament.

62. Every rule made by the Central Government and every regulation made by the Board under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

63. (1) Where, before the commencement of this Act, an agreement or agreements have been entered into between one oil company and another for the purpose of sharing of petroleum products or sharing of infrastructure facilities among the oil companies and such agreements have been approved by the Central Government, the Board may monitor the implementation of such agreements for the transition period.

Transitional
arrangements.

(2) The Board shall monitor setting up of dealerships and distributorships of motor spirit, high speed diesel, superior kerosene oil, liquefied petroleum gas and CNG stations for natural gas during transition period by the entities without encroaching on the retail network of the existing entities.

Explanation I.—For the purposes of this section, the expression “transition period” shall mean a period of three years from the date of commencement of this Act.

Explanation II.—For the purposes of this section, “infrastructure facilities” shall mean facilities at ports, refineries, terminals, depots and aviation fuelling stations including hydrant lines and shall include loading and unloading facilities.

Explanation III.—For the purposes of this section “encroaching” includes taking over of retail outlet of one entity by another.

MANI SHANKAR AIYAR.

Notes on clauses

Clause 1.—This clause provides for the short title, application of the proposed legislation to the entire country in the areas of refining, processing, storage, transportation, distribution, marketing and sale of petroleum, petroleum products and natural gas excluding production of natural gas and crude oil, and empowers the Central Government to appoint the date of commencement of the proposed legislation by notification in the Official Gazette.

Clause 2.— This clause defines various expressions occurring in the proposed legislation.

Clause 3.—This clause provides for the composition, establishment and incorporation of the Petroleum and Natural Gas Regulatory Board with its head office in New Delhi. The Board will be a body corporate having perpetual succession, a common seal and shall by the said name sue or be sued. The Board shall consist of a Chairperson, Member (Legal) and three other members. This clause also provides for the establishment of regional offices of the Board.

Clause 4.—This clause lays down the qualifications of the Chairperson, Member (Legal) and other members of the Board. It provides that the Central Government shall appoint the Chairperson and other members of the Board from amongst persons of eminence in the fields of petroleum and natural gas industry, management, finance, law, administration or consumer affairs. It provides further that no person shall be appointed as the Member (Legal) unless he is qualified to be a Judge of a High Court or has been a member of the Indian Legal Service and has held a post in Grade I of that Service for at least three years. Sub-clause (2) provides that the Central Government shall constitute a Search Committee consisting of Member, Planning Commission In charge of the energy sector as Chairperson and Secretaries to the Government of India in the Ministry of Petroleum and Natural Gas, Department of Economic Affairs in the Ministry of Finance, In charge of Commerce in the Ministry of Commerce and Industry and Department of Legal Affairs in the Ministry of Law and Justice, as Members for the purposes of selecting the Chairperson and other members of the Board.

Clause 5.—This clause provides that the Chairperson and the other members shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of 65 years, whichever is earlier and that he will not be eligible for re-appointment. Further, it provides for the fixation of salary and allowances payable to and the other terms and conditions of service of the Chairperson and other members. It also deals with the procedure of resignation by the Chairperson or other members of the Board. This clause also states that the Chairperson or the other members ceasing to hold office in the Board shall be ineligible for further employment under the Central Government or any State Government and will not accept any commercial employment for a period of two years from the date he ceases to hold such office.

Clause 6.— This clause lays down the powers of the Chairperson with regard to functioning of the Board in addition to presiding over the meetings of the Board.

Clause 7.— This clause deals with the circumstances under which the Chairperson and other members of the Board may be removed from office and the procedure to be followed in such removal.

Clause 8.— This clause empowers the Board to determine the procedure for the transaction of business in its meetings including times and places of such meetings.

Clause 9.— This clause enumerates the circumstances under which the acts or proceedings of the Board shall not be invalidated.

Clause 10.— This clause makes provisions for the appointment of Secretary, other officers and employees of the Board and for the determination of the salaries and allowances and the other terms and conditions of service of the Secretary, other officers and employees of the Board. It also provides for appointment of consultants as may be required to assist the Board.

Clause 11.— This clause lays down the powers and functions of the Board. The functions of the Board, *inter alia*, shall be to —

- (a) protect the interest of consumers by fostering fair trade and competition amongst the entities;
- (b) register entities to market notified petroleum, petroleum products and subject to the contractual obligations of the Central Government, natural gas, or to establish and operate liquefied natural gas terminals, or to establish storage facilities for petroleum, petroleum products or natural gas exceeding such capacity as may be specified by regulations;
- (c) authorise the entities to lay, build, operate or expand a common carrier or contract carrier or city or local natural gas distribution network;
- (d) declare pipelines as common carrier or contract carrier;
- (e) regulate access to common carrier or contract carrier or city or natural gas distribution network and transportation rates for common carrier or contract carrier;
- (f) ensure adequate availability and display of information about the maximum retail prices fixed by the entity of such petroleum, petroleum products and natural gas as may be notified by the Central Government;
- (g) monitor prices of notified petroleum, petroleum products and natural gas and take corrective measures to prevent restrictive trade practice by the entities;
- (h) secure equitable distribution for petroleum and petroleum products;
- (i) lay down, by regulations, and enforce retail service obligations for retail outlets and marketing service obligations for entities;
- (j) levy fees and other charges as determined by regulations;
- (k) maintain a data bank of information on activities relating to petroleum, petroleum products and natural gas;
- (l) lay down, by regulations, the technical standards and specifications including safety standards in activities relating to petroleum, petroleum products and natural gas, including the construction and operation of pipeline and infrastructure projects related to downstream petroleum and natural gas sector;
- (m) perform such other functions as may be entrusted to it by the Central Government to carry out the provisions of the proposed legislation.

Clause 12.— This clause seeks, *inter alia*, to empower the Board to settle any dispute or matter arising amongst entities or between an entity and any other person on issues relating to refining, processing, storage, transportation, distribution, marketing and sale of petroleum, petroleum products and natural gas. The Board shall also receive any complaint from any person regarding contravention of certain provisions of the proposed legislation and pass suitable orders to decide the complaint.

Clause 13.— This clause contains the procedure to be followed and powers to be exercised by the Board in the discharge of its functions under the proposed legislation.

Clause 14.— This clause provides for maintenance of a register to be called the Petroleum and Natural Gas register containing details of entities registered or authorised by the Board to undertake any activity requiring registration or authorisation, as the case may be, under the proposed legislation.

Clause 15.— This clause provides that every entity desirous of marketing any notified petroleum or petroleum product or natural gas or establishing or operating a liquefied natural gas terminal or establishing storage facilities for petroleum, petroleum products or natural gas exceeding specified capacity shall register under the proposed legislation. However, an

entity marketing any notified petroleum, petroleum product and natural gas, or establishing or operating a liquefied natural gas terminal, or establishing storage facilities for petroleum, petroleum products or natural gas exceeding specified capacity immediately before the appointed day shall inform to the Board about such activity within six months from the appointed day.

Clause 16.— This clause provides that no entity shall lay, build, operate or expand any pipeline as a common carrier or contract carrier or lay, build, operate or expand any city or local natural gas distribution network, without obtaining authorisation under the proposed legislation. However, an entity laying, building, operating or expanding any pipeline as common carrier or contract carrier or laying, building, operating or expanding any city or local natural gas distribution network, on the appointed day shall be deemed to have such authorisation, but any change in the purpose or usage shall require authorisation.

Clause 17.— This clause contains provisions relating to filing an application by an entity for grant of authorisation by the Board.

Clause 18.— This clause provides for causing due publicity by the Board of an application for registration of specified activities referred to therein.

Clause 19.— This clause seeks to empower the Board to invite applications and select an entity in specified objective and transparent manner for granting authorisation subject to such terms and conditions as it may specify.

Clause 20.— This clause contains the procedure for declaring an existing pipeline for transportation of petroleum, petroleum products and natural gas or an existing city or local natural gas distribution network as common carrier or contract carrier by the Board.

Clause 21.— This clause makes, *inter alia*, provision for giving the right of first use for own requirement of the owner of a pipeline. It also provides that the Board shall require such entities comply with the specified affiliate code of conduct and may require separation of the activities of marketing of natural gas and the transportation including ownership of the pipeline by an entity engaged in both marketing of natural gas and laying, building, operating or expanding a pipeline for transportation of natural gas on common carrier or contract carrier basis. This clause further provides for payment of transportation rates for use of common carrier to the authorised entity.

Clause 22.— This clause seeks to empower the Board to lay down transportation tariffs for common carriers or contract carriers or city or local natural gas distribution network and the manner of determining such tariffs.

Clause 23.— This clause seeks to empower the Board to suspend or cancel the authorisation granted by it on failure to comply with any condition of authorisation.

Clause 24.— This clause makes provisions for settlement of disputes among entities or between an entity and any other person save as otherwise provided for arbitration in the relevant agreements between them. This clause, *inter alia*, provides that such disputes shall be decided by a Bench consisting of the Member (Legal) and one or more members nominated by the Chairperson.

Clause 25.— This clause contains detailed provisions for filing of complaint before the Board by any person in respect of matters relating to entities or between entities on matters arising out of the provisions of the proposed legislation. The provisions of this clause shall not be applied in respect of complaint of an individual consumer maintainable before a Consumer Disputes Redressal Forum or a Consumer Disputes Redressal Commission or the National Consumer Redressal Commission established under the Consumers Protection Act, 1986. It further provides for investigation of such a complaint by the Board or an Investigating Officer of the Board and the procedure for passing orders thereon by the Board. It also provides for the Central Government to make a reference to the Board on a matter arising out the provisions of the proposed legislation which the Central Government

considers required to be investigated and the provisions of the proposed legislation shall apply in such a reference as a complaint made to the Board.

Clause 26.— This clause seeks to provide for appointment of Investigating Officer by the Board. It provides for the Board to refer the matters required to be investigated by any investigating agency of the State or Central Government and request the concerned Government for directing or authorising such agency to investigate. Such agency is competent to exercise the powers and to discharge the duties of an Investigating Officer under the provisions of the proposed legislation. This clause further provides that in case of more than one Investigating Officer, the Board shall specify the matters and local limits of their jurisdiction.

Clause 27.— This clause provides for the factors that need to be taken into account by the Board to decide a dispute.

Clause 28.— This clause seeks to empower the Board to impose civil penalty for contravention of its directions.

Clause 29.— This clause states that every order made by the Board shall be executable in the same manner as a decree of a civil court. It also provides that the order of the Board shall be deemed to be a final decree where an appeal lies against an order of the Board and no appeal has been preferred before the expiry of the period allowed for preferring an appeal before the Appellate Tribunal.

Clause 30.— This clause provides that the Appellate Tribunal established under section 110 of the Electricity Act, 2003 shall be the Appellate Tribunal for the proposed legislation. It also provides for the Central Government to appoint one or more Technical Members (Petroleum and Natural Gas) on the Appellate Tribunal for Electricity in addition to its three other members.

Clause 31.— This clause provides for the appointment of Technical Member (Petroleum and Natural Gas) from the panel prepared by the Search Committee constituted under the provisions of the proposed legislation. It also provides for the qualification of the Technical Member (Petroleum and Natural Gas).

Clause 32.— This clause provides for the term of office, salaries and allowances payable to and the other terms and conditions of service of the Technical Member (Petroleum and Natural Gas) to be same as applicable to other members of the Appellate Tribunal for Electricity.

Clause 33.— This clause provides that any person aggrieved by an order or decision made by the Board under this legislation may prefer an appeal to the Appellate Tribunal. It also provides, *inter alia*, for the time frame to file an appeal and its disposal by the Appellate Tribunal.

Clause 34.— This clause provides for the procedure and powers of the Appellate Tribunal. The provisions of sections 120 to 124 of the Electricity Act, 2003 shall *mutatis mutandis* apply to the Appellate Tribunal in the discharge of its functions under the proposed legislation as they apply to it in the discharge of its functions under the Electricity Act, 2003.

Clause 35.— This clause provides for the Appellate Tribunal to make rules in respect of the procedure to be followed by it.

Clause 36.— This clause provides that orders passed by the Appellate Tribunal shall be executable as a decree of a civil court. It also empowers the Appellate Tribunal to have all the powers of a civil court.

Clause 37.— This clause provides for appeal against any order of the Appellate Tribunal to the Supreme Court and prescribes the time limit for such appeal. It also provides that no appeal shall lie against the orders made by the Appellate Tribunal with the consent of the parties.

Clause 38.— This clause contains provisions for grants of such sum of money as the Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Board to pay salaries and allowances payable to the Chairperson and the members and the administrative expenses including the salaries, allowances and pensions payable to the officers and employees of the Board.

Clause 39.— This clause provides for constitution of a Fund to be called the Petroleum and Natural Gas Regulatory Board Fund. It also provides for grants, fees, penalties and charges to be credited to the fund and all payments should be made therefrom. This clause further provides for the Central Government to constitute a committee to recommend the budgetary requirements of the Board for salaries, allowances and all other expenses and to fix the budgetary ceiling of the Board based on such recommendation.

Clause 40.— This clause provides for usual provisions regarding maintenance of proper accounts and other relevant records by the Board as may be prescribed by the Central Government. The accounts of the Board should be audited and certified by the Comptroller and Auditor-General of India, which would be laid before Parliament by the Central Government. The decisions of the Board appealable before the Appellate Tribunal shall, however, not be subject to audit.

Clause 41.— This clause provides for furnishing of annual report by the Board to the Central Government. A copy of the annual report is required to be laid, as soon as may be after it is received, before each House of Parliament.

Clause 42.— This clause empowers the Central Government to issue directions in writing to the Board from time to time.

Clause 43.— This clause confers power on the Central Government to take over control and management of facilities and business premises of any entity and retail outlets in public interest after affording an opportunity of hearing to the affected entities. It also provides for dispensing with the requirement of giving opportunity of hearing in public interest in cases of emergency and in cases where circumstances do not permit serving of notice for want of sufficient time. The Collector of the concerned revenue district shall determine the amount of compensation payable for taking over of the property.

Clause 44.— This clause provides for punishment for contravention of directions of the Board.

Clause 45.— This clause provides for penalty for wilful failure to comply with the orders of the Appellate Tribunal.

Clause 46.— This clause provides for punishment for marketing any notified petroleum, petroleum products or natural gas without a valid registration.

Clause 47.— This clause provides for punishment for establishing or operating a liquefied natural gas terminal without registration.

Clause 48.— This clause provides for punishment for laying, building, operating or expanding a common carrier or contract carrier or a city or local natural gas distribution network without authorisation.

Clause 49.— This clause provides for punishment for wilful damages to common carrier or contract carrier.

Clause 50.— This clause provides that any offence committed by a company and punishable under the proposed legislation would cover the person in charge of the company.

Clause 51.— This clause provides for maintenance of data bank and information by the Board relating to activities of entities dealing with petroleum, petroleum products and natural gas. Further, the Board shall have the power to verify the data supplied by the entities.

Clause 52.—This clause provides for obligations of entities which, *inter alia*, include commencement of activities for which authorisation has been granted within the time specified by the Board, maintenance of documentary records as specified by the Board, and allow inspection of such facilities and documentary records by any person authorised by the Board. The entity shall also register documents as may be specified by the Board. The Board may call for any information from an entity and shall also have the power to inspect and obtain information from any authorised entity.

Clause 53.—This clause provides for furnishing of returns, statements and other particulars by the Board to the Central Government.

Clause 54.—This clause specifies that the Chairperson, members, officers and other employees of the Board and the Technical Member (Petroleum and Natural Gas) of the Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Clause 55.—This clause contains the usual provisions relating to the protection of action taken in good faith.

Clause 56.—This clause specifies that no civil court shall have jurisdiction in respect of any matter which the Board or the Appellate Tribunal is empowered by or under the proposed legislation to determine.

Clause 57.—This clause lays down that a court shall take cognizance of any offence punishable under the provisions of the proposed legislation only on a complaint made by the Board or by any investigating agency directed by the Central Government. This clause further states that no court inferior to that of a Chief Metropolitan Magistrate or a Chief Judicial Magistrate shall try any offence punishable under the proposed legislation. Every offence punishable under clauses 44, 45, 46 and 47 of the proposed legislation shall be cognizable.

Clause 58.—This clause provides for delegation of certain powers of the Board.

Clause 59.—This clause empowers the Central Government to remove difficulties which may arise in giving effect to the provisions of the proposed legislation, by notifying an order and such an order is required to be laid, as soon as may be after it is made, before each House of Parliament. It also provides that no such order shall be made after the expiry of two years from the date of commencement of the proposed legislation.

Clause 60.—This clause confers on the Central Government the power to make, by notification, rules for carrying out the provisions of the proposed legislation.

Clause 61.—This clause empowers the Board to make, by notification, regulations in respect of certain matters consistent with the proposed legislation and the rules made thereunder.

Clause 62.—This clause lays down that the rules and regulations made under the proposed legislation would be laid before Parliament.

Clause 63.—This clause relates to transitional arrangement. It seeks to empower the Board to monitor the implementation of agreements entered into between one oil company and another for sharing of petroleum products or infrastructure facilities as approved by the Central Government for the transition period. The Board shall also monitor setting up of dealerships and distributorships by the entities without encroaching on the retail network of the existing entities during the transition period. The expression "transition period" shall mean a period of three years from the date of commencement of the proposed legislation.

FINANCIAL MEMORANDUM

The Bill provides for the establishment of a Petroleum and Natural Gas Regulatory Board to regulate the petroleum sector activities and for that purpose to levy fee and other charges.

2. Sub-clause (1) of clause 3 of the Bill provides for the establishment of the Board. Sub-clause (3) of clause 3 provides for the composition of the Board. Clause 4 provides for the appointment by the Central Government of the Chairperson and other members of the Board including the Member (Legal). Sub-clause (4) of clause 5 provides that the salary and other conditions of service of the Chairperson and members shall be such as may be prescribed. Sub-clause (1) of clause 10 provides for the appointment by the Central Government of the Secretary to the Board. Sub-clause (2) of clause 10 provides for appointment by the Board of other officers and employees against posts created with the approval of Central Government, while sub-clause (3) provides that the salary and other conditions of service of Secretary, officers and employees of the Board shall be such as may be prescribed. Sub-clause (4) of clause 10 provides for the appointment of consultants by the Board. Sub-clause (1) of clause 30 provides that the Appellate Tribunal for Electricity established under section 110 of the Electricity Act, 2003 should be the Appellate Tribunal for the purposes of the proposed legislation. Sub-clause (2) of the said clause 30 provides for the appointment by the Central Government of a Technical Member (Petroleum and Natural Gas) on the said Appellate Tribunal for serving as a Technical Member to deal with appeals under the proposed legislation. The aforementioned provisions of the Bill, if enacted and brought into operation would involve expenditure towards meeting the salaries, allowances and other remuneration of Chairperson, members, officers, consultants and other employees of the Board, etc.

3. Clause 38 of the Bill provides that the Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Board grants of such sums of money as are required to pay salary and allowances payable to the Chairperson and the other members and the administrative expenses. This expenditure has to be met by the Board from out of the Petroleum and Natural Gas Regulatory Board Fund constituted under clause 39 of the Bill which will mainly consists of grants, etc. made to the Board by the Central Government, after due appropriation made by Parliament.

4. It is not practicable to make an exact estimate of the above-mentioned expenditure at this stage as the exact structure of the Board would emerge later in consultation with the Board once it is established. So far as the expenditure on salaries and allowances of Chairperson, other members, officers, other employees and of consultants, and other administrative expenses is concerned, it is estimated that the same would be to the tune of approximately Rs. 15 crores during the first year of functioning of the Board. With the expansion of the activities of the Board, this expenditure, which is of a recurring nature, may increase by a modest amount. It is not possible to estimate at this stage the extent to which this expenditure would increase. In addition to the aforementioned recurring expenditure, it is estimated that there would be a non-recurring expenditure of Rs. 3 crores towards the establishment of the office of the Board, etc.

5. It is estimated that the Bill will not involve any other expenditure of a recurring or non-recurring nature from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 60 of the Bill empowers the Central Government to make rules, by notification in the Official Gazette, to carry out the provisions of the proposed legislation. The matters in respect of which rules may be made relate, among others, to the salary and other conditions of service of the Chairperson, members, Secretary, officers and other employees of the Board, the form and manner in which accounts of the Board shall be maintained and returns and statements are to be made to the Central Government and other matters of a procedural or administrative nature.

2. Clause 61 of the Bill empowers the Board to make, by notification in the Official Gazette, regulations, consistent with the provisions of the proposed legislation and the rules made thereunder, to carry out the provisions of the proposed legislation. The matters in respect of which regulations may be made relate, among others, to the procedure to be followed at meetings of the Board, terms and conditions of consultants appointed by the Board, marketing service obligations for entities and retail service obligations for retail outlets, regulating open access to and transportation tariffs for common or contract carrier, the technical standards and specifications including safety standards, the principles for determining the number of years for which a city or local gas distribution network shall be excluded from the purview of a common or contract carrier, the affiliate code of conduct, the guiding principles for declaring or authorising to lay, build, operate or expand a common or contract carrier, the form in which a complaint may be made, the manner of holding an inquiry by an Investigating Officer, etc.

2. Clause 62 of the Bill provides that the rules and regulations made under the proposed legislation are required to be laid before each House of Parliament.

3. The matters in respect of which rules and regulations may be made are matters of procedure or administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

II

BILL NO. CXXVII OF 2005

A Bill to provide for the prevention, control and eradication of infectious and contagious diseases affecting animals, for prevention of outbreak or spreading of such diseases from one State to another, and to meet the international obligations of India for facilitating import and export of animals and animal products and for matters connected therewith or incidental thereto.

WHEREAS economic losses due to infectious and contagious diseases of animals are enormous in the country with some of these diseases constituting a serious threat to the public;

AND WHEREAS many of such animal diseases can be largely prevented by judicious implementation of vaccination programmes or by taking other appropriate and timely measures on scientific lines;

AND WHEREAS such measures are necessary to facilitate the import and export of animals and animal products and to keep in tune with international practices;

AND WHEREAS it has been realised that the prevention, control and eradication of infectious and contagious diseases of animals from India has to be tackled on a national basis so as to avoid adverse impact of such diseases on the economy of the country and for this purpose harmonise the control procedures and to prevent inter-State transmission of animal diseases;

AND WHEREAS the national level handling has to be done with the active involvement of the State Governments, particularly in regard to the precautionary measures required to be taken within their jurisdiction in respect of certain infectious and contagious diseases and the regulation of movement of animals outside their respective areas by timely adoption of appropriate measures;

AND WHEREAS India is a Member Country of the *Office International Des Epizooties, Paris* and it is necessary to implement the general obligations, decisions and recommendations of the said Organisation and abide by the International Animal Health Code stipulated by the said Organisation;

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Prevention and Control of Infectious and Contagious Diseases in Animals Bill, 2005.

(2) It shall come into force on such date as the Central Government may, by notification, appoint; and different dates may be appointed for different States or for different areas therein as well as for different provisions of this Act, and any reference in any such provision of this Act to the commencement of this Act shall be construed in relation to any State or area or provision as a reference to the coming into force of this Act or, as the case may be, of that provision, in such State or area.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “animal” means,—

(i) cattle, buffalo, sheep, goat, yak, mithun;

(ii) dog, cat, pig, horse, camel, ass, mule, poultry, bees; and

(iii) any other animal or bird as the Central Government may, by notification, specify;

(b) “Check Post” means any place established as such by the Director to carry out checking of animals for the purpose of this Act;

(c) “Competent Officer” means any person or officer of the Government notified as a Competent Officer under section 17;

(d) “compulsory vaccination” means vaccination of any animal against any Scheduled disease in respect of which vaccination is made mandatory under the provisions of this Act;

(e) “controlled area” means any local area which has been declared as such by the State Government under sub-section (1) of section 6;

(f) “defective vaccine” means any vaccine which is expired, breach in seal, contaminated, improperly stored, unlabelled or with mutilated label;

(g) “Director”, in relation to a State, means any officer in charge of the Department of Animal Husbandry or Veterinary Services, or both, notified by the State Government as such for the purpose of this Act;

(h) “free area” means any controlled area which has been declared as such under sub-section (5) of section 6;

(i) “infected animal” means an animal which is infected with any Scheduled disease;

(j) “infected area” means an area declared as such under section 20;

(k) “notification” means notification published in the Official Gazette;

(l) “prescribed” means prescribed by rules made under this Act;

(m) “publication” includes propagation of information through the media or newspaper or any other *mass media*;

(n) “Quarantine Camp” means any place declared to carry out quarantine of animals and birds for the purpose of this Act;

(o) “scheduled disease” means any disease included in the Schedule;

(p) “Veterinarian” means a person having a recognized veterinary qualification who, under the law for the time being in force, is allowed to treat animal diseases;

(q) “Veterinary Officer” means any officer, appointed as such by the State Government under clause (b) of section 3;

(r) “Village Officer”, in relation to a village, means any person who is authorised or designated as such by the State Government.

CHAPTER II

CONTROL OF SCHEDULED DISEASES

3. The State Government may, by notification, appoint—

(a) such number of persons, as it deems proper, to be veterinarians to undertake inspection and specifying the local limits of their respective jurisdiction; and

(b) such number of Veterinarians, as it deems proper, to be Veterinary Officers, who shall exercise their powers and discharge their duties within the local limits of their jurisdiction as may be specified in the said notification.

Appointment
of Veterinary
Officers.

4. (1) Every owner, or any other person, non-governmental organization, public bodies or the village panchayat in charge, of any animal which he or it has reason to believe to be infective of a scheduled disease shall compulsorily report the fact to the Village Officer, and wherever possible also report the same in writing to the nearest available Veterinarian and the person reporting shall be given an acknowledgement thereof in writing.

Reporting
scheduled
diseases
obligatory.

(2) Every Veterinarian shall, on receipt of a report under sub-section (1), or otherwise, if he has reason to believe that any animal is infected with a scheduled disease, report the matter to the Veterinary Officer.

(3) Where in any State there is any occurrence of scheduled disease in relation to any animal, the Director shall send an intimation to the Directors of the States which are in the immediate neighbourhood of the place where there is such occurrence, for taking appropriate preventive measures against the spread of the disease.

5. (1) Every owner or person in charge of an animal, which he has reason to believe is infective of a scheduled disease, shall segregate such animal and have it kept in a place away from all other animals which are healthy, and take all possible steps to prevent the infected animal from coming in contact with any other animal.

Duty to
segregate
infected
animals.

(2) The owner or other person in charge of, or having control over, the animal referred to in sub-section (1) shall confine that animal and prevent it from grazing in a common place or to drink water from any common source including a vessel, pond, lake or river.

(3) All other infected animals shall be segregated by the Municipality, Panchayat or other local administration.

6. (1) The State Government may, with the object of preventing, controlling or eradicating any scheduled disease, by notification, declare any area to be a controlled area in respect of any scheduled disease affecting any species of animal and any other species that may be susceptible to the disease specified in the said notification.

Notification
of controlled
areas and free
areas.

(2) The State Government shall also cause the substance of the notification issued under sub-section (1) to be published in a local newspaper in the vernacular language.

(3) Where a notification has been issued under sub-section (1), all animals of the species in the controlled area shall be subjected to compulsory vaccination against that disease, and be subjected to such other measures against the disease, in such manner and within such time as the State Government, may, by public notice, direct.

(4) The State Government shall make available necessary vaccine and it shall be obligatory on the part of every owner, or the person in charge of an animal which is required to be vaccinated under sub-section (3), to get the animal compulsorily vaccinated.

(5) Where the State Government is satisfied, on a report received from the Director or otherwise, that, in any controlled area, any of the scheduled diseases affecting any species of animal is no longer prevalent, it may, by notification, declare the area to be a free area in respect of that disease in relation to the particular species of animal.

(6) Where a notification has been issued under sub-section (5), no animal of the species or of any other susceptible species with regard to which it is a free area shall be allowed to enter the free area unless duly immunized by vaccination against that particular disease.

7. (1) Where a notification has been issued under sub-section (1) of section 6 declaring any area as a controlled area in relation to any disease affecting any species of animals, no animal belonging to that species shall be moved from the place where it is kept.

Prohibition of
movement of
animals from
controlled
area.

(2) The Director may, for the purpose of control, prevention or eradication of any scheduled disease, in respect of any area, by order published in the Official Gazette, prohibit the movement of all animals belonging to any species specified therein, from the place where it is kept, to any other place.

(3) Nothing contained in sub-sections (1) and (2) shall be deemed to prohibit—

(a) the movement of any animal referred to therein, from the place where it is kept, to the nearest place where it can be got vaccinated, so long as the animal is being moved for the purpose of its immunization by vaccination; or

(b) the movement of any such animal, so long as it is accompanied by a valid certificate of vaccination to indicate that the animal is duly immunized against the particular disease and it bears proper mark of such vaccination.

8. (1) The vaccine to an animal may be administered by any person competent under the law for the time being in force to administer it, and issue a certificate of administration of vaccination.

(2) Where any animal has been vaccinated for any scheduled disease in compliance with the provisions of sub-section (1), the person vaccinating the animal shall cause to put a mark by branding, tattooing or ear tagging, or in such other manner as the Director may, by general or special order, direct and the same shall, unless otherwise specified by the Director shall not be removed.

(3) The authority issuing a certificate of vaccination shall specify the date of vaccination, dates of manufacture and expiry of the vaccine and the date up to which the vaccination of the animal with the particular vaccine shall be valid.

9. Every vaccination certificate issued under this Act shall be in such form and shall contain such particulars as may be prescribed by the Central Government.

10. (1) Where any area has been declared as a controlled area under sub-section (1) of section 6 in respect of any disease affecting any species of animals, no animal belonging to that species shall be taken out of, or brought into that area save as provided in section 16.

(2) The Director may, by notice duly published in the Official Gazette and at least in one daily local newspaper in vernacular language, extend the prohibition contained in sub-section (1) to any other species of animals, if animals belonging to that species are also likely to be infected with that disease.

(3) No carrier of goods or animal shall carry any animal from or out of a controlled area, free area or infected area by land, sea or air unless he complies with the provisions of section 16.

(4) Nothing contained in sub-sections (1) to (3) shall apply to the carriage by railway or any animal referred to in those sub-sections through any area which, for the time being, is declared as a controlled area or infected area so long as the animal is not unloaded (for whatsoever purpose or duration) in any place within that area:

Provided that the State Government may, by notification, declare that any species of animal so carried through any local area within the State shall be duly immunized against such scheduled disease, in such manner and within such time as may be specified in that notification and a certificate of vaccination shall be a pre-requisite for the transportation of the animals by the railways through that area:

Provided further that, where any notification as referred to in the first proviso has been issued, it shall be incumbent on the State Government to intimate that fact to the concerned Railway authorities so as to enable them to satisfy themselves about the immunization of the animal before transporting it through the local area of the State.

11. No person shall take out of the controlled area—

(a) any animal, alive or dead, which is infected with, or reasonably suspected to have been infected with, any scheduled disease notified under sub-section (1) of section 6,

(b) any kind of fodder, bedding or other material which has come into contact with any animal infected with such disease or could, in any manner, carry the infection of the notified disease, or

(c) the carcass, skin or any other part or product of such animal.

Vaccination,
marking and
issue of
vaccination
certificate.

Contents of
vaccination
certificate.

Entry and
exit of
animals into
controlled
area and free
area.

Precautionary
measures in
relation to
controlled
areas.

12. No person, organization or institution shall hold any animal market, animal fair, animal exhibition and carry on any other activity which involves grouping or gathering of any species of animals within a controlled area:

Prohibition of markets, fairs, exhibition, etc., in the controlled areas.

Provided that the Competent Officer may, *suo motu* or on application made to him in this behalf, relax the prohibition in relation to any species of animals, in a case where animals belonging to that species are not susceptible to the scheduled disease and are incapable of carrying it, if he is satisfied that in the public interest it is necessary to accord such relaxation.

13. No person shall bring or attempt to bring into market, fair, exhibition or other congregation of animals or to any public place, any animal which is known to be infected with a Scheduled disease.

Prohibition of bringing of infected animals into market and other places.

14. (1) The Director may establish as many Quarantine Camps and Check Posts within the State as may be required—

Check Posts and Quarantine Camps.

(a) for the detention of animals suffering from any scheduled disease or of animals which have come into contact with or have been kept in the proximity of any such infected animal;

(b) for ensuring the prevention of entry into or exit from any controlled area or infected area or free area, of any animal belonging to the species of animals in respect of which a notification, issued under sub-section (1) of section 6, or an order issued under sub-section (2) of section 7, is in force.

(2) Any animal which is required to be detained, inspected, vaccinated, or marked, may be kept in the Quarantine Camp for such period as the Competent Officer may direct.

(3) Every animal detained at a Quarantine Camp shall be under the custody of the person in charge of the camp, and shall be vaccinated and marked.

(4) The officer in charge of the Quarantine Camp shall, at the time of release of an animal from the station, grant a permit, in such form as may be prescribed by the State Government, to the person taking charge of the animal, and every such person shall be bound to produce the permit whenever required to do so by any Competent Officer.

15. (1) Every person in charge of any Check Post or Quarantine Camp shall inspect any animal stopped at the Check Post, or detained therein or at the Quarantine Camp.

Inspection and detention of animals at Check Posts and Quarantine Camps.

(2) The manner of inspection and the period of detention of the animal at the Check Post or at the Quarantine Camp for the purpose of inspection or for the administration of compulsory vaccination, the marking of animals and the form and manner in which permit for entry in respect of any animal may be issued, shall be such as may be prescribed by the State Government.

16. Notwithstanding anything contained in section 10, an animal belonging to the species of animals in respect of which an area has been declared as a controlled or free area in relation to any scheduled disease, which has been duly vaccinated against that disease, shall be allowed to enter into or be taken out of the controlled area or free area, or to be taken out of any other place on the production of a certificate to the effect that vaccine against that disease has been administered and a period of not less than twenty-one days has lapsed thereafter.

Entry and exit of vaccinated animals into controlled and free areas.

17. The State Government may, for the proper implementation of the provisions of this Act, by notification, authorise any person to exercise any power or discharge any duty as a Competent Officer, under this Act, who shall exercise such powers and such duties within the local limits of his jurisdiction as may be specified in the notification.

Appointment of Competent Officers.

Cleaning and disinfection of carriers.

18. (1) Every common carrier whether a vessel or vehicle shall be cleaned and disinfected immediately before and after the transportation of any animal in that vessel or vehicle, and so also any other place where the animal has been kept in transit.

(2) Where any area has been declared as a controlled area or free area in respect of any scheduled disease affecting any species of animal, the Director may, by an order duly published in the Official Gazette and in a local newspaper in the vernacular language, direct the owner of every vehicle in which any animal belonging to that species is carried, to have the vehicle properly cleaned and disinfected.

Powers of entry and inspection.

19. Any Veterinary Officer or other Competent Officer may enter upon and inspect any land or building or place, vessel or vehicle, for the purpose of ensuring compliance of the provisions of this Act or the rules or orders made thereunder, by the persons responsible for such compliance.

CHAPTER III

INFECTED AREAS

Declaration of infected areas.

20. If the Veterinary Officer, upon receipt of a report from a Veterinarian or otherwise, is satisfied that, in any place or premises falling within his jurisdiction, an animal has been infected with any scheduled disease, or that an animal, which he has reason to believe has been so infected, is kept, may, by notification and publication in at least one local newspaper in the vernacular language, declare such area as he may deem fit (including the place or premises aforesaid) to be an infected area.

Effect of declaration of infected areas.

21. (1) Where an area has been declared as an infected area under section 20, all provisions of this Act which are applicable in relation to a controlled area shall *mutatis mutandis* apply thereto as if for the words "controlled area," the words "infected area" have been substituted.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the following further provisions shall apply in relation to an infected area, namely:—

(a) in respect of every animal in that area which is infected or reasonably believed to be infected, with any scheduled disease, the owner or other person in charge of the animal, shall forthwith get it treated by a Veterinarian;

(b) all articles, which are likely to have come into contact with any animal referred to in clause (a), shall be treated or disposed off in such a manner as the Veterinarian may direct;

(c) every Veterinarian shall, for the purpose of inspection, have the power to enter any place or premises where any animal is kept or is likely to be kept;

(d) the owner or any other person in charge of the animal referred to in clause (a) shall keep the animal in isolation forthwith, and also take such other measures as may be necessary for the prevention, treatment and control of the disease as the Veterinarian may direct.

Denotification of infected area.

22. If the Veterinary Officer, after such enquiry as he may deem fit, is satisfied that there is no longer the threat or danger of any animal being infected with the scheduled disease in any infected area, by notification and publication in a local newspaper in vernacular language, declare that the area is no longer an infected area as aforesaid, whereupon all the restrictions referred to in section 21 shall cease to apply.

CHAPTER IV

INFECTED ANIMALS

Segregation, examination and treatment of infected animals.

23. (1) Where the Veterinarian has, on receipt of a report or otherwise, reason to believe that any animal is infected with a scheduled disease, he may, by order in writing, direct the owner or any other person in charge of such animal—

(a) to keep it segregated from other apparently healthy animals; or

(b) to subject it to such treatment as may be required under the circumstances.

(2) Where any action has been taken in pursuance of sub-section (1), the Veterinarian shall forthwith give a detailed report of the incidence of the disease to the Veterinary Officer.

(3) On receipt of a report from the Veterinarian, the Veterinary Officer shall, as soon as possible, examine that animal as well as any other animal which could have come in contact with it, and for that purpose, submit the animal to such test and medical examination as may be required under the circumstances.

(4) If, after such test and examination, the Veterinary Officer is of the opinion that an animal is not infected with any of the scheduled diseases, he shall issue a certificate in writing that the animal is not infected with any such disease.

24. (1) Where the Veterinary Officer considers it necessary for the purpose of ascertaining whether the animal which is suspected to have been infected with any scheduled disease or susceptible to such infection, is actually infected, or for the purpose of ascertaining the nature of the scheduled disease with which an animal is infected, he may draw such samples, as may be required, from the animal for the purpose of carrying out such investigations as he may deem necessary under the circumstances.

Drawing
samples from
animals.

(2) The Veterinary Officer or any other Competent Officer shall draw samples from any animal for the purposes of ascertaining whether the animal has been vaccinated against any disease, or whether the vaccination of the animal has been effective in conferring it immunity and have the samples examined, in such manner as he may deem necessary.

25. If the Veterinary Officer deems it necessary that an animal, which is infected with a scheduled disease, euthanasia has to be resorted to, for preventing the spread of the disease to other animals in the area, he may, notwithstanding anything contained in any other law for the time being in force, by an order in writing, direct euthanasia of the animal and the carcass disposed off immediately to his satisfaction.

Resort to
euthanasia
for infected
animals.

26. Every person in possession of carcass (or any part thereof) of any animal, which, at the time of its death, was infected with any scheduled disease or was suspected to have been infected, shall dispose it of in such manner as may be prescribed.

Disposal of
carcass.

27. (1) Where the Veterinary Officer or any Veterinarian has reason to believe that the death of an animal has been caused by an infection of any scheduled disease, he may make or cause to be made a post-mortem examination of the animal and for that purpose he may cause the carcass of any such animal to be exhumed where required followed by proper disposal after necessary examination and post-mortem.

Powers of
Veterinary
Officer and
Veterinarian
to hold post-
mortem
examination.

(2) Every examination and post-mortem referred to in sub-section (1) shall be conducted in such manner, and the report of post-mortem shall be in such form, as may be prescribed.

28. Where any animal which is infected or suspected to have been infected is found without any person claiming to be its owner, or where a valid order or direction given in relation to any such animal is not promptly complied with by the owner or other person in control of the animal, it shall be open to the Veterinary Officer or any other Competent Officer, to seize the animal and remove it to a place of isolation or segregation, as he may deem proper.

Seizure and
removal of
certain
animals.

CHAPTER V

ENFORCEMENT AND PENALTIES

29. (1) Where by any rule, notification, notice, requisition, order or direction made under this Act, any person is required to take any measure or to do anything—

Enforcement
of orders and
recovery of
expenses.

(a) in respect of any animal, carcass of any animal or other thing in his custody or charge, the same shall be promptly complied with by that person;

(b) in case of any stray or ownerless animal, carcass of such animal or parts thereof, the same shall be promptly complied with by the municipality or Panchayat, as the case may be, at its cost.

(2) If the measures as referred to in sub-section (1) are not taken within such time as may be allowed for the purpose, the authority issuing the notice, requisition, order or direction, may cause the measures to be taken at the cost of the person or municipality or Panchayat, as the case may be, who or which was required to take the measures.

(3) The costs of any measures taken under sub-section (2), shall be recoverable from the person or the municipality or Panchayat, as the case may be, concerned in the manner provided by the Code of Criminal Procedure, 1973, for the recovery of fines imposed by a Court, as if such costs were a fine imposed by a Court. 2 of 1974.

Village
Officers, etc.,
to assist.

30. All Municipal, Panchayat or Village Officers and all officers of the rural and dairy development, revenue, agriculture, animal husbandry and veterinary departments of the State Government, shall be bound—

(a) to give immediate information to the Veterinary Officer and to the Veterinarian having jurisdiction in the area regarding the prevalence of a scheduled disease amongst any animal or species of animals, in the area;

(b) to take all necessary measures to prevent the outbreak or spread of any scheduled disease; and

(c) to assist the Veterinary Officer and the Veterinarian in the discharge of their duties or in the exercise of their powers under this Act.

Penalty for
issuing
vaccination
certificate
without
authority or
administering
defective
vaccine.

31. If any person issues a vaccination certificate,—

(a) without authority or competence in that behalf, or

(b) after administering the vaccine which is known to be defective in any manner,

he shall be guilty of an offence punishable with a fine of two thousand five hundred rupees or in case of non-payment of fine with imprisonment which may extend to one month, and in the case of any subsequent offence, with fine of ten thousand rupees or with imprisonment which may extend to three months.

Penalties.

32. Any person who contravenes the provisions of this Act or obstructs the Competent Officer in performing his duties shall be guilty of an offence punishable with fine which may extend to five hundred rupees, and in case of failure to pay the penalty with imprisonment for a term which may extend to one month; and in the case of any subsequent offence (whether under the same provision or any other provision of this Act except in case of sections 31 and 33) with a fine of one thousand rupees, or with imprisonment for a term which may extend to two months in case of non-payment of the penalty.

Penalty for
placing
infected
animal or
carcass in
river, etc.

33. Whoever places or causes or permits to be placed in any river, lake, canal or any other water body, the carcass or any part of the carcass of any animal which at the time of its death was known to be infected, shall be guilty of an offence and, on conviction, be punished, in the case of a first offence with fine of one thousand rupees or with imprisonment of one month in case of non-payment of fine and in the case of subsequent conviction with a fine of two thousand rupees or imprisonment for a term which may extend to three months or with both.

Offences by
companies.

34. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded and punished accordingly:

Provided that nothing contained in this sub-section shall render such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a co-operative society registered or deemed to be registered under any law for the time being in force, a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

CHAPTER VI

PRECAUTIONARY MEASURES ON CAUSATIVE ORGANISM, ETC.

35. (1) In every institution, laboratory or clinic, engaged in the manufacture, testing or research, related to vaccines, sera, diagnostics or chemotherapeutic drugs and aimed at the prevention or treatment of any scheduled disease, adequate precautionary measures shall be taken —

Prevention of escape of causative organism.

(a) to ensure that the causative organism of any scheduled disease does not escape or otherwise get released;

(b) to guard against any such escape or release; and

(c) to warn and to protect everyone concerned in the event of any escape.

(2) Notwithstanding anything contained in any other law for the time being in force, every animal —

(a) used for the manufacture, testing or research as referred to sub-section (1), or

(b) which is likely to carry or transmit any scheduled disease,

shall be promptly administered euthanasia and disposed of by the person in charge of or having control of the institution, laboratory or clinic, as the case may be, referred to in that sub-section.

(3) Every person who is in charge of or having control of an institution, laboratory or clinic referred to in sub-section (1) comply with the provisions of sub-section (1) and sub-section (2); and in the event of non-compliance he shall be guilty of an offence punishable with fine which may extend to five thousand rupees or imprisonment for a term which extend to six months or with both.

CHAPTER VII

MISCELLANEOUS

36. The State Government may, by notification, delegate to any officer or authority subordinate to it, all or any of the powers conferred on it by or under this Act, except the powers to make rules under sub-section (2) of section 42.

Power to delegate.

37. All officers and authorities under this Act shall exercise their powers and discharge their duties conferred or imposed on them by or under this Act, in accordance with such orders, not inconsistent with the provisions of this Act, as the Central Government or the State Government may, from time to time, make.

Officers and authorities to function subject to Government control.

38. (1) The Central Government may, by notification, add to, or omit from the Schedule any animal disease and the said disease shall, as from the date of the notification, be deemed to have been added to, or omitted from, the Schedule.

Power to amend the Schedule.

(2) Every notification issued under sub-section (1) shall, as soon as may be after it is issued, be laid before each House of Parliament.

Power to issue directions.

39. The Central Government may, with the object of prevention, control and eradication of any infectious or contagious disease of animals, issue such directions to the State Government or other authorities under this Act, from time to time, including directions for furnishing such returns and statistics on Scheduled diseases, and vaccination, as it may deem fit and every such direction shall be complied with.

Certain persons to be public servants.

40. Every Competent Officer, Director and Veterinary Officer, while exercising any power or performing any duty under this Act, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Power to remove difficulties.

41. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Power of Central Government to make rules.

42. (1) The Central Government may, subject to the condition of previous publication, by notification, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form of vaccination certificate and the particulars which such certificate shall contain, under section 9;

(b) the manner of disposal of carcass, under section 26;

(c) the manner of conducting examination and post-mortem under sub-section (1) and the form of report of post-mortem under sub-section (2), of section 27;

(d) any other manner which may be prescribed or in respect of which rules are required to be made by the Central Government.

Power of State Government to make rules.

43. (1) The State Governments may, by notification and with the prior approval of the Central Government, make regulations for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form of permit to be granted by the officer in charge of a Quarantine Camp, under sub-section (4) of section 14;

(b) the manner of inspection and the period of detention of an animal at a Check Post or at a Quarantine Camp for the administration of compulsory vaccination and marking of animals and the form and manner of issue of entry permit, under sub-section (2) of section 15;

(c) any other matter in respect of which rule is to be or may be made by the State Government.

Laying of rules.

44. (1) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(2) Every rule made by the State Government under this Act shall be laid, as soon as may be, after it is made, before the State Legislature.

Repeal and
savings.

45. On the commencement of this Act—

13 of 1899.

(i) The Glanders and Farcy Act, 1899;

5 of 1910.

(ii) The Dourine Act, 1910; and

(iii) any other corresponding law of any State, so far as it is inconsistent with the provisions of this Act,

shall stand repealed:

Provided that nothing contained in this section shall —

(a) affect the previous operation of any such provision of law or anything duly done or suffered thereunder;

(b) affect any right, privilege, obligation or liability acquired, accrued or incurred under any such provision of law;

(c) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any such provision of law; or

(d) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and every such investigation, legal proceeding or remedy may be continued, instituted or enforced, and any such penalty, forfeiture and punishment may be imposed, as if the aforesaid provisions of law had continued:

Provided further that, anything done or any action taken under any such provision of law, including any notification, order, notice or receipt issued or declaration made, shall in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done, taken, issued or made under the corresponding provisions of this Act, and shall continue in force accordingly, unless and until superseded by anything done or any action taken under this Act.

THE SCHEDULE
[See sections 2 (1) (m) and 38]

PART I

LIST-A : DISEASES — Communicable diseases which have the potential for very serious and rapid spread, irrespective of health, consequence and which are of major importance in the international trade of livestock and livestock products.

1. Foot and Mouth Disease (FMD)—

- (i) FMD - Virus - O.
- (ii) FMD - Virus - A.
- (iii) FMD - Virus - C.
- (iv) FMD - Virus Asia - 1.
- (v) FMD - Virus not typed.

2. Rinderpest.

3. Peste des petits ruminants.

4. Contagious bovine pleuropneumonia.

5. Blue-tongue.

6. Sheep pox and goat pox.

7. Hog cholera (Swine fever).

8. Newcastle disease (Ranikhet disease).

PART II

LIST-B : DISEASES — Communicable diseases which are considered to be of socio-economic, public health importance and which are significant in the international trade of livestock and livestock products.

(a) Multiple species diseases:—

- 1. Anthrax.
- 2. Echinococcosis or Hydatidosis.
- 3. Leptospirosis.
- 4. Q Fever.
- 5. Rabies.
- 6. Paratuberculosis (Johne's disease).

(b) Cattle diseases:—

- 1. Anaplasmosis.
- 2. Babesiosis.
- 3. Bovine brucellosis (*Brucella abortus*).
- 4. Bovine genital campylobacteriosis.
- 5. Bovine tuberculosis (*Mycobacterium bovis*).
- 6. Cysticercosis (*Cysticercus bovis*).
- 7. Dermatophilosis.
- 8. Enzootic bovine leucosis.
- 9. Haemorrhagic septicaemia.

10. Infectious bovine Rhinotracheitis (IBR/IPV).
11. Theileriasis.
12. Trichomoniasis.
13. Trypanosomiasis.
14. Bovine Spongiform Encephalopathy (BSE).

(c) Buffalo diseases:—

1. Babesiosis.
2. Bovine brucellosis (*Brucella abortus*).
3. Bovine genital campylobacteriosis.
4. Bovine tuberculosis (*Mycobacterium bovis*).
5. Cysticercosis (*Cysticercus bovis*).
6. Haemorrhagic septicaemia.
7. Infectious bovine Rhinotracheitis (IBR/IPV).
8. Trichomoniasis.
9. Trypanosomiasis.

(d) Sheep and goat diseases:—

1. Caprine and ovine brucellosis (*Brucella melitensis*).
2. Contagious agalactia.
3. Contagious caprine pleuropneumonia.
4. Enzootic abortion of ewes.

(e) Horse diseases:—

1. Dourine.
2. Equine infectious anaemia.
3. Equine influenza (virus type A).
4. Equine piroplasmiasis (Babesiosis).
5. Equine rhinopneumonitis.
6. Glanders.
7. Infections arteritis of horses.
8. Horse mange.
9. Salmonellosis (*Salmonella abortus equi*).
10. Surra (*Trypanosoma evansi*).

(f) Pig diseases:—

1. Cysticercosis (*Cysticercus cellulosae*).
2. Porcine brucellosis (*Brucella suis*).

(g) Poultry diseases:—

1. Avian infections bronchitis.
2. Avian infections laryngotracheitis.
3. Avian tuberculosis.

4. Duck hepatitis.
5. Fowl cholera.
6. Fowl pox.
7. Fowl typhoid (*Salmonella gallinarum*).
8. Infectious bursal disease (Gumboro disease).
9. Marek's disease.
10. Mycoplasmosis (*Mycoplasma gallisepticum*).
11. Pullorum disease (*Salmonella pullorum*).

(h) Diseases of other animal species.

(i) Leishmaniasis.

PART III

LIST C : DISEASES — Communicable diseases with important socio-economic or sanitary influence or both.

(a) Multiple species diseases:—

1. Listeriosis.
2. Blackleg (Black Quarter).
3. Botulism.
4. Other clostridial infections.
5. Other Pasteurellosis.
6. Actinomycosis.
7. Intestinal Salmonella Infections.
8. Coccidiosis.
9. Distomatosis (liver fluke).
10. Filariasis.
11. Mucosal Disease or Bovine Virus Diarrhoea.

(b) Sheep and goat diseases:—

1. Contagious pustular dermatitis.
2. Foot-rot.
3. Contagious ophthalmia.
4. Enterotoxaemia.
5. Sheep mange.

(c) Horse diseases:—

1. Strangles.

(d) Pig diseases:—

1. Swine erysipelas.

(e) Poultry diseases:—

1. Infections coryza.
2. Avian encephalomyelitis.
3. Avian spirochaetosis (Fowl spirochaetosis).
4. Avian salmonellosis (excluding Fowl typhoid and Pullorum disease).
5. Avian leucosis.

(f) Dog and Cat diseases:—

1. Canine distemper.

(g) Exotic or Emerging diseases:—

1. Bovine Spongiform Encephalopathy.
2. Scrapie.
3. Avian Influenza.
4. African Swine Fever.

STATEMENT OF OBJECTS AND REASONS

Adoption of improved animal husbandry practices by the livestock owners coupled with timely immunizations and treatment of affected animals along with effective prevention of spread of disease pathogens from an infected area to other areas can result in reducing incidence of the communicable diseases significantly. However, in India our efforts to control the major infectious and contagious diseases in animals like Foot and Mouth Disease (FMD), Peste des Petits Ruminants (PPR), Haemorrhagic Septicaemia (HS), Black Quarter (BQ), and Anthrax are constrained in the absence of a uniform legislation in the country. Even though the programme for dealing with the control and prevention of animal diseases has been going on since the second five Year Plan, these major diseases still continue to be serious threats to the livestock sector.

2. India is a member of the Office International Des Epizooties (OIE), Paris. For the import and export of animals and animal products (including milk, eggs, meat and other products and by-products) recognition by the OIE as regards freedom from particular disease or diseases in the country is necessary. This recognition is accorded by the OIE to the member countries, subject to the fulfilment of certain requirements, as prescribed in the International Animal Health Code (IAHC) of OIE. It is obligatory for the member countries to provide to the OIE information regarding animal health status and also to follow the OIE Guidelines on the control of animal diseases in order to get their recognition as regards the absence/presence of certain diseases, particularly the diseases like Foot and Mouth Disease (FMD), Rinderpest (RP), Contagious Bovine Pleuro-pneumonia, etc. The provisions of IAHC of OIE are binding on member countries for the purpose of international trade in animals and animal products. The World Trade Organisation (WTO) and the Codex Alimentarius also recognise these provisions of the IAHC of OIE. It has, therefore, become necessary on the part of India to undertake necessary legislative measures to meet its obligations so as to enjoy the benefits under the International Animal Health Code.

3. The movement and transportation of animals from one part of the country to another, having become faster and more commonly in vogue, the spread of contagious diseases has also become easier. Some of the animal diseases such as Tuberculosis and Rabies are zoonotic in nature, i.e. these are communicable to human beings. While creating awareness of animal diseases and popularisation of measures such as vaccination, to some extent, contribute to control the diseases, no appreciable results could be achieved unless the law relating to animal diseases has a nation-wide impact.

4. It is, therefore, proposed to enact a suitable legislation by Parliament under article 253 of the Constitution for the prevention of infectious and contagious diseases in animals which will be a uniform law throughout the country. The proposed legislation will take care of outbreak of diseases in animals and provide for effectively controlling and containing infectious and contagious animal diseases including zoonotic diseases and thus prevent the spread of such diseases.

5. The proposed legislation, *inter alia*, seeks to provide for—

(i) monitoring, effective control and containment of infectious and contagious diseases which normally afflict animals so as to prevent the spread of the diseases and in due course eradicate them from the nation as a whole;

(ii) spelling out the diseases and declare certain areas as “controlled area” *vis-à-vis* any particular disease;

(iii) getting freedom from a specific disease in respect of the specified areas for facilitating the international trade of livestock and livestock products;

(iv) effective control, containment and eradication of infectious diseases from the country, by declaring the controlled areas;

(v) imposing of restrictions to regulate the movement of diseased animals;

(vi) allowing free movement of vaccinated and marked animals within the specified area;

(vii) ensuring protection from disease and eliminating the possibility of spreading of infection to healthy animals;

(viii) facilitating the implementation of the regulatory measures by providing check posts and quarantine stations.

6. The Notes on clauses explain in detail the various provisions contained in the Bill.

7. The Bill seeks to achieve the above objects.

SHARAD PAWAR.

Notes on clauses

Clause 1.—Sub-clause (1) of this clause provides for the short title on the proposed legislation, the area of its operation and its applicability. The proposed legislation shall not be applicable to the State of Jammu & Kashmir. As certain preparatory steps are required to be taken before the different provisions of the proposed legislation are brought into force in different States, it is proposed to empower the Central Government to appoint different dates for the purpose.

Clause 2.—This clause contains definitions of certain expressions used in the Bill. The definitions of “animal”, “controlled area”, “free area”, “infected animal”, “infected area”, “scheduled disease” and “Veterinary Officer” are some of them. The word “animal” means cattle, buffalo, sheep, goat, yak, mithun, dog, cat, pig, horse, camel, ass, mule, poultry, bees and any other animal or bird as the Central Government may by notification in the Official Gazette, specify.

Clause 3.—This clause provides for the appointment of veterinarians and veterinary officers by the State Government and determine their local limits of jurisdictions.

Clause 4.—This clause provides for compulsory reporting of scheduled diseases by the owners of animals and other related bodies like Village Panchayats to the local veterinarian or veterinary officer who in turn would send the information to the Director in charge of the State Animal Husbandry or veterinary Department for taking action including intimating to the Directors of Animal Husbandry of the neighbouring States to take necessary preventive measures.

Clause 5.—This clause lays down the duty of the owner of the animal to segregate the infected animals and the procedure for keeping the segregated animals.

Clause 6.—This clause empowers the State Government to declare an area to be a controlled area and subject the animals in the area to compulsory vaccinations and declare or notify the areas as free after verification that the scheduled disease does no longer exist in the controlled area.

Clause 7.—This clause empowers the Director to notify in the Official Gazette prohibiting the movement of animals from one place to another.

Clause 8.—This clause provides for vaccination and marking of the animals against the scheduled diseases and issue of vaccination certificate.

Clause 9.—This clause empowers the Central Government to lay down, by rules, the form and contents of vaccination certificate.

Clause 10.—This clause provides restriction in movement of animals into controlled and free areas for which the Director has to issue a notice to be published in the Official Gazette and local newspapers in vernacular language.

Clause 11.—This clause provides for precautionary measures to be taken in the controlled areas where no person is allowed to take out any infected animal, feed, beddings, etc., out of the controlled area.

Clause 12.—This clause prohibits holding of animal market, animal fairs and animal exhibitions in the controlled area.

Clause 13.—This clause prohibits bringing of any infected animal into the market and other public places like fairs, exhibitions, etc.

Clause 14.—This clause provides for the establishment of Check Post and quarantine camps within the State by the concerned Director for detention of any infected animal,

prevention of entry or exit of animals from and into the controlled or infected area and vaccination and marking of the animal.

Clause 15.—This clause provides for inspection and detention of the animals at check posts and quarantine camps.

Clause 16.—This clause provides for regulation of movement of vaccinated animals into controlled and free areas.

Clause 17.—This clause provides for empowering the State Governments to appoint Competent Officers to exercise the powers under the proposed legislation within the local limits of their jurisdiction.

Clause 18.—This clause provides for the procedure for cleaning and disinfection of the carriers used for transportation of infected animals.

Clause 19.—This clause empowers the Veterinary Officer or Competent Officer to enter and inspect the premises, vessel or vehicle as and when required to ensure compliance of the provisions of the proposed legislation.

Clause 20.—This clause provides for empowering the Veterinary Officer to declare and notify any place as an infected area and the procedure for issuance of such notification.

Clause 21.—This clause specifies the effect of declaration of infected areas and provides certain measures to be taken by the owner of the animal and veterinarians for keeping the infected animals in isolation and also for disposal of all articles which came in contact with the infected animal.

Clause 22.—This clause empowers the Veterinary Officer to de-notify infected area to be free of the disease after the threat or danger of infection is over.

Clause 23.—This clause provides for segregation, examination and treatment of infected animals and also issuance of disease free certificate in case the animal is not found infected after examination and testing.

Clause 24.—This clause provides for the authority to Veterinary Officer or any other Competent Officer to draw samples from animals infected with any infection for investigation.

Clause 25.—This clause empowers the Veterinary Officers to decide on euthanasia for infected animals to prevent the spread of the disease to other animals and disposal of carcass.

Clause 26.—This clause empowers the Central Government to lay down rules governing the manner of disposal of carcass or any part thereof of any animal which, at the time of its death, was infected with any scheduled disease or was suspected to have been infected with such disease. The manner of disposal of the infected carcass of the animals died due to a scheduled disease will also be laid down by rules.

Clause 27.—This clause empowers the Veterinary Officer or any veterinarian to conduct post mortem examination of animals died due to infection of any scheduled disease.

Clause 28.—This clause empowers the Veterinary Officer or any other Competent Officer to seize the ownerless animals or animals of such owner not complying with the directions of competent authority and remove the same to a place of isolation.

Clause 29.—This clause provides for enforcement of orders, rules, notification, direction, etc., and recovery of cost in the event of non-compliance of such orders, etc.

Clause 30.—This clause lays down the measures required to be taken to control the prevalence of scheduled disease and the measures to be taken to control the outbreak of such diseases. It further provides that all Municipal, Panchayat or Village officers and that all officers of the concerned departments of the State Government have to assist and provide information to the Veterinary Officer and veterinarians for achieving the purpose.

Clause 31.—This clause lays down the penalty for administering defective vaccine and issuing a vaccination certificate without authority or competence.

Clause 32.—This clause provides for penalties for obstructing the Competent Officer in performing his duties.

Clause 33.—This clause provides for the details of penalty for placing infected animal or carcass in rivers or any other water body.

Clause 34.—This clause provides for penalties for commission of offences by companies including co-operative societies, firms and other association of individuals.

Clause 35.—This clause provides for the measures to be undertaken by an institution engaged in the manufacture, testing and research related to vaccine, sera and diagnostics or chemotherapeutic drugs aimed at prevention or treatment of any scheduled disease to prevent escape of causative organism and ensure remedial measures in case of escape.

Clause 36.—This clause empowers the State Government to delegate its powers, except the power to make rules, to any subordinate officer or authority.

Clause 37.—This clause authorises the officers and authorities to exercise their powers and discharge their functions as per the provisions of the proposed legislation.

Clause 38.—This clause empowers the Central Government to amend, by notification, the Schedule to the proposed legislation containing the list of animal diseases in the Official Gazette. Sub-clause (2) of this clause provides that every such notification is required to be laid before Parliament.

Clause 39.—This clause empowers the Central Government to issue directions for prevention, control and eradication of the infectious or contagious disease of animals and gather information by way of returns or furnishing of statistics in respect of any Scheduled disease or vaccination.

Clause 40.—This clause specifies that every Competent Officer, Director or Veterinary Officer acting under the proposed legislation shall be public servants within the meaning of section 21 of the Indian Penal Code.

Clause 41.—Sub-clause (1) of this clause empowers the Central Government to remove any difficulty which may arise in giving effect to the provisions of the proposed legislation by order published in the Official Gazette. Such order shall not be inconsistent with the provisions of the proposed legislation. This power can be exercised only within two years from the commencement of the proposed legislation. Sub-clause (2) requires that every such order shall be required to be laid before each House of Parliament.

Clause 42.—Sub-clause (1) of this clause empowers the Central Government to make rules to carry out the provisions of the proposed legislation. Sub-clause (2) enumerates the various matters in respect of which such rules may be made. These matters include the form of vaccination certificate, the manner of disposal of carcass and the manner of conducting post-mortem of body of animals died due to any scheduled disease.

Clause 43.—Sub-clause (1) of this clause empowers the State Governments to make rules with the previous approval of the Central Government to carry out the provisions of the proposed legislation. Sub-clause (2) enumerates the various matters in respect of which such rules may be made. These matters '*inter alia*' include the form of permit in respect of quarantine camp and manner of inspection and the period of detention of animals at Check Post or quarantine camps.

Clause 44.—This clause provides that every rule made by the Central Government under the proposed legislation shall be required to be laid, as soon as may be after it is made, before each House of Parliament and similarly, every rule made by the State Government shall be required to be laid before the State Legislature.

Clause 45.—This clause provides for repealing of all corresponding laws, namely, the Glanders and the Farcy Act, 1899, the Dourine Act, 1910 and any other corresponding law of any State in so far as it is inconsistent with the provisions of the proposed legislation. It also provides for saving of anything done or any action taken under the laws which are being repealed.

The Schedule to the Bill enumerates the various animal diseases which are Scheduled diseases for the purpose of the proposed legislation.

FINANCIAL MEMORANDUM

Clause 3 of the Bill empowers the State Government to appoint, by notification in the Official Gazette, such number of persons, as it deems proper, to be veterinarians to undertake inspection and such number of veterinarians to be Veterinary Officers for exercising such powers and discharging such functions as may be assigned to them. It is proposed to utilise the services of the existing officers of the State Governments for being appointed as veterinarians and Veterinary Officers.

Clause 17 of the Bill empowers the State Governments to authorise any person to function as competent officer under the proposed legislation.

As it is proposed to utilise the services of the serving officers of the State Governments and Union territories for the purposes of the proposed legislation, no additional expenditure, both recurring and non-recurring, from the Consolidated Fund of India is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (o) of clause 2 of the Bill defines "Scheduled disease" as any disease included in the Schedule to the proposed legislation. The Schedule enumerates the various infectious and contagious diseases of animals. Sub-clause (1) of clause 38 of the Bill empowers the Central Government to add to, or omit from, the Schedule any animal disease, by notification, in the Official Gazette. Sub-clause (2) of clause 38 requires that every notification issued under sub-clause (1) shall be required to be laid before each House of Parliament.

2. Sub-clause (1) of clause 42 of the Bill empowers the Central Government to make rules, by notification in the Official Gazette, for carrying out the provisions of the proposed legislation. Sub-clause (2) of the said clause enumerates the matters in respect of which such rules may be made under the proposed legislation. These matters, *inter alia*, relate to the form of vaccination certificate and the particulars which such certificate shall contain under clause 9 of the Bill, the manner of disposal of carcass under clause 26, the manner of conducting examination and post-mortem under sub-clause (1) and the form of report of post-mortem under sub-clause (2) of clause 27.

3. Sub-clause (1) of clause 43 of the Bill empowers the State Government to make rules, by notification in the Official Gazette, for carrying out the provisions of the proposed legislation. Sub-clause (2) of the said clause enumerates the matters in respect of which such rules may be made under the proposed legislation. These matters, *inter alia*, relate to the form of permit to be granted by the officer in charge of a Quarantine Camp, under sub-clause (4) of clause 14, the manner of inspection and the period of detention of an animal at a Check Post or at a Quarantine Camp for the administration of compulsory vaccination and marking of animals and the form and manner of issue of entry permit, under sub-clause (2) of clause 15.

4. Sub-clause (1) of the said clause 44 of the Bill requires that the rules made by the Central Government under the proposed legislation shall have to be laid before Parliament. Similarly, sub-clause (2) requires that the rules made by the State Government under the proposed legislation shall have to be laid before the State legislature.

5. The matters in respect of which notifications may be issued or rules may be made are matters of procedure or administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

YOGENDRA NARAIN.
Secretary-General.